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Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the independent expert on minority issues, Gay McDougall, in accordance with General Assembly resolution 63/174.

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Report of the independent expert on minority issues

Summary

The present report is submitted to the General Assembly pursuant to its resolution 63/174 of 18 December 2008. It is the first report submitted by the independent expert on minority issues, Gay McDougall. Pursuant to resolution 63/174, the independent expert outlines her activities to promote implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The independent expert provides a brief overview of the activities carried out under her mandate since its establishment in July 2005, including country visits and thematic work undertaken.

The report focuses on the role of the protection of minority rights in conflict prevention. Among the essential elements of a strategy to prevent conflicts involving minorities are respect for minority rights, particularly with regard to equality in access to economic and social opportunities; effective participation of minorities in decision-making; dialogue between minorities and majorities within societies; and the constructive development of practices and institutional arrangements to accommodate diversity within society. Significantly, the independent expert emphasizes that attention to minority rights at an early stage — before grievances lead to tensions and violence — would make an invaluable contribution to the culture of prevention within the United Nations, save countless lives and promote stability and development. Among the recommendations included in the report is the suggestion that expertise in minority rights should be strengthened and integrated comprehensively across the United Nations system.

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I. Introduction

1. The present report[1] is submitted to the sixty-fifth session of the General Assembly in accordance with resolution 63/174 of 18 December 2008. This is the first report of the independent expert on minority issues. The mandate of the independent expert was created by the Commission on Human Rights in its resolution 2005/79 of 21 April 2005 and renewed by the Human Rights Council in its resolution 7/6 of 26 March 2008.

2. Bearing in mind those resolutions, the Human Rights Council has requested the independent expert on minority issues, inter alia, (a) to promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,[2] including through consultations with Governments, taking into account existing international standards and national legislation concerning minorities; (b) to identify best practices and possibilities for technical cooperation by the Office of the United Nations High Commissioner for Human Rights at the request of Governments; (c) to apply a gender perspective in his/her work; (d) to cooperate closely, while avoiding duplication, with existing relevant United Nations bodies, mandates, mechanisms and regional organizations; and (e) to take into account the views of non-governmental organizations on matters pertaining to the mandate of the independent expert.

3. The independent expert's evaluation of minority issues globally is based on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and on other relevant international standards. She has identified four broad areas of concern relating to minorities globally, as follows: (a) the protection of a minority's survival, through the combating of violence against the members of that minority and the prevention of genocide; (b) the protection and promotion of the cultural identity of minority groups and the right of national, ethnic, religious or linguistic groups to enjoy their collective identity and reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination, as well as the promotion of affirmative action when required; and (d) the guarantee of the right to effective participation of members of minorities in public life, especially with regard to decisions that affect them. The independent expert has applied a gender perspective to all areas of her work and has given a high priority to the situations of minority women.

4. Since July 2005, during the course of her tenure as the first holder of the mandate, the independent expert has undertaken numerous activities of a thematic nature as well in direct engagement with specific States and on distinct minority situations. To date, she has conducted official country visits to 10 countries, including the following: Canada, Colombia, the Dominican Republic, Ethiopia, France, Greece, Guyana, Hungary, Kazakhstan and Viet Nam. On the basis of information provided to the independent expert from a variety of sources, she sends communications to States seeking information on specific situations affecting minority communities and members of minority groups.

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[1] The independent expert on minorities expresses her appreciation to Chris Chapman for his contribution to this report.

[2] General Assembly resolution 47/135 of 18 December 1992, annex.

5. The thematic reports include analysis of global minority issues and provide recommendations to States and others. In 2006, the independent expert presented a thematic study to the Human Rights Council, which focused attention on minorities in the context of poverty alleviation and poverty reduction strategies and the Millennium Development Goals. In 2007, she undertook thematic research and held a seminar on the global issue of minorities and discriminatory denial or deprivation of citizenship, and in 2008 presented a thematic report and recommendations on this issue to the Human Rights Council.

6. By resolution 6/15 of 28 September 2007, the Human Rights Council created the Forum on Minority Issues. Since 2008 the Forum has provided an important platform for minorities and the discussion of minority issues. The independent expert is required to guide the sessions of the Forum, prepare its annual meetings and make recommendations to the Human Rights Council for thematic subjects to be considered by the Forum. In December 2008, the inaugural Forum on Minority Issues considered minorities and the right to education (A/HRC/10/11/Add.1). In November 2009 the second annual session of the Forum considered minorities and effective political participation (A/HRC/13/25). The third annual session of the Forum will take place on 14 and 15 December 2010 and will be dedicated to the issue of minorities and effective participation in economic life. The Forum seeks to provide concrete and tangible outcomes in the form of thematic recommendations of practical value to all stakeholders. The independent expert reports to the Human Rights Council on the recommendations emerging from the Forum.

7. In accordance with the mandate of the General Assembly to promote stability, security and peaceful relations between States, the theme of the present report is the role of minority rights protection in conflict prevention. Among the essential elements of a strategy to prevent conflicts involving minorities are respect for minority rights; dialogue between minorities and majorities within societies; and the constructive development of practices and institutional arrangements to accommodate diversity within society.

8. The present report will focus on how attention to minority rights violations at an early stage — before they lead to tensions and violence — would make an invaluable contribution to the culture of prevention within the United Nations, save countless lives and promote stability and development.

9. The history of the development of minority rights at the United Nations has been closely linked to the need to address tensions between minorities and the State, and between population groups. The Declaration, which establishes the mandate of the independent expert, states in its preamble that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live. The drafting of the Declaration began in 1978, and received added impetus with the break-up of the Soviet Union and Yugoslavia in the early 1990s. Those events led to concerns that tensions between the many ethnic and religious communities in those entities would erupt and result in long-running wars. They also inspired efforts to develop standards and mechanisms on minority rights in the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE).

10. By resolution 47/135 of 18 December 1992, the General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The importance attached to it was summed up by the

representative of Austria, who, speaking before the Third Committee, observed that once the declaration had been adopted, it should then not be filed and forgotten, but implemented and filled with life, so as to contribute to overcoming situations of tension relating to minorities (see A/C.3/47/SR.47, para. 89).

11. It is the view of the independent expert that much bloodshed and suffering and many setbacks in the process of national development could be avoided if Governments took a proactive approach to minority rights, putting protections in place long before tensions erupted. Societies in which mechanisms are in place allowing minorities freely to use their language, practice their culture and religion, and participate in political and economic life on an equal footing with the rest of the population are less likely to be societies in which tensions deteriorate into violent conflict.

12. Equally, in those States that implement protection for minority rights, minorities are more likely to be recognized as equal rights-holders and afforded the full protection of the State from aggression and violence directed against them.

13. Minorities are often the targets, rather than the perpetrators, of violence. When minority rights are violated, members of minorities may be at a greater risk of being subjected to systematic violence, even when they are bystanders to a conflict involving other parties. Such incidents can happen as a result of minorities' poverty and exclusion from political decision-making processes, or because their often remote communities, poorly served by State infrastructure, can become targets for occupation for strategic purposes or for exploitation of natural resources. Furthermore, owing to the suspicion and prejudice with which they are often viewed by both members of the majority and security forces, minorities may be targeted with impunity.

14. Additionally, women and men members of minorities may be targeted by armed actors in different ways, increasing the forms of violence in the society in general. For example, women are targeted by sexual violence, while men are forcibly recruited into militias. The rape of women, for example, may be intended to humiliate men and demonstrate their inability to protect "their" women.

15. The views of the independent expert have been developed over the course of her work, including through visits to countries in almost every region of the world, thematic reports and policy debates that she has facilitated at the Forum on Minority Issues. She has consulted widely with Governments, experts and non-governmental organizations. She has participated in seminars and forums in the field of early warning and conflict prevention. In addition, she has held consultations with numerous key actors, including the Special Adviser to the Secretary-General on the Prevention of Genocide and the Committee on the Elimination of Racial Discrimination, including discussions relating to, inter alia, how efforts could be coordinated to identify potential threats to the existence of minorities and how to better coordinate conflict prevention work.

16. For the purposes of the present report, the independent expert has consulted a number of key staff members of the funds, programmes and specialized agencies of the United Nations, intergovernmental organizations and non-governmental organizations, including think tanks and academic institutions, and has conducted a review of relevant literature.

A. The link between minority rights violations and violent conflict

17. The protection of minority rights and the prevention of violent conflicts are legitimate goals of independent value to be pursued by the international community. Both goals lie at the heart of the mandate of the United Nations, and States should pursue each one as a valid objective in its own right. However, the fact that these two concerns are so often linked to one another makes it appropriate to consider them together.

18. Since the Declaration was adopted in 1992, the basic assumption contained in its preamble — that the implementation of minority rights contributes to the stability of States — has been taken up and developed further in successive resolutions of the General Assembly, the Commission on Human Rights, its successor the Human Rights Council, reports of the Secretary-General and outcome documents of a number of conferences and policy processes.

19. In his landmark report to the Millennium Assembly of the United Nations in 2000, the Secretary-General stated that in many countries at war, the condition of poverty was coupled with sharp ethnic or religious cleavages, and that almost invariably, the rights of subordinate groups were insufficiently respected, the institutions of Government were insufficiently inclusive and the allocation of society's resources favoured the dominant faction over others. He added that the solution was clear: to promote human rights, to protect minority rights and to institute political arrangements in which all groups were represented, and that every group needed to become convinced that the State belonged to all people (A/54/2000, paras. 202-203).

20. In the Durban Declaration and Programme of Action (A/CONF.189/12 and Corr.1, chap. I), the outcome document of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the participating States expressed their concern that socio-economic development was being hampered by widespread internal conflicts which were due, among other causes, to gross violations of human rights, including those arising from racism, racial discrimination, xenophobia and related intolerance, and from lack of democratic, inclusive and participatory governance. It urged States to recognize that techniques, mechanisms, policies and programmes for reconciling conflicts based on factors related to race, colour, descent, language, religion, or national or ethnic origin and for developing harmonious multiracial and multicultural societies needed to be systematically considered and developed (ibid., paras. 21 and 171).

21. The Secretary-General has stated that respecting the rights of children, of women, and of all minorities is at the core of the Charter of the United Nations; it is both a moral obligation and an economic imperative. Discrimination and injustice threaten the goals for peace, security and sustainable development. Preserving minority languages and nurturing ethnic cultures and traditions lays the foundations for lasting stability.[3]

22. With respect to the donor community, it has been recognized that engagements between donors and recipient countries — whether from a conflict prevention or post-conflict peacebuilding perspective — need to be guided by recognition of the specific injustices suffered by minorities. The Organization for Economic Cooperation

[3] See press release SG/SM/12833, 7 April 2010.

and Development, which brings together the world's main donor Governments, has developed a set of principles guiding assistance to fragile States, in which it urges member States to promote non-discrimination as a basis for inclusive and stable societies. Real or perceived discrimination is associated with fragility and conflict, and can lead to service delivery failures. Measures to promote the voice and participation of women, youth, minorities and other excluded groups should be included in State-building and service delivery strategies from the outset.[4]

23. The link between minority rights and conflict prevention and conflict resolution has also been made by regional intergovernmental organizations. In the African context, in 1994, States members of the Organization of African Unity reaffirmed their deep conviction that friendly relations among their peoples as well as peace, justice, stability and democracy, called for the protection of ethnic, cultural, linguistic and religious identity of all their people including national minorities and the creation of conditions conducive to the promotion of that identity.[5]

24. In the Americas, the Inter-American Democratic Charter stresses that the elimination of discrimination and respect for cultural diversity contribute to strengthening democracy and citizen participation,[6] which in turn are necessary for ensuring peace, stability and development. In the Copenhagen Document of the Conference on Security and Cooperation in Europe, the participating States reaffirmed that respect for the rights of persons belonging to national minorities as part of universally recognized human rights was an essential factor for peace, justice, stability and democracy in the participating States.[7]

25. Research conducted by academic institutions, non-governmental organizations and the United Nations provides further support for this basic premise. The Centre for Research on Inequality, Human Security and Ethnicity at Oxford University has undertaken detailed quantitative and qualitative research into conflict and horizontal inequalities (inequalities between ethnic, religious or linguistic communities) in 8 countries in three regions, and statistical desk research in 55 countries. The Centre analyses inequalities in access to economic opportunities, participation in political decision-making and the status accorded to cultural practices and symbols. The Centre concluded that in the top 5 per cent of countries with the greatest socio-economic inequalities, the risk of conflict is tripled when compared with the average. The risk of conflict increases again if socio-economic inequalities are combined with inequality in access to political decision-making, and inequality in cultural status adds a further risk factor. Despite its findings, the Centre has

[4] Organization for Economic Cooperation and Development, "Principles for good international engagement in fragile States" (Paris, 2007), available from http://www.oecd.org/document/48/0,3343,en_2649_33693550_35233262_1_1_1_1,00.html.

[5] Organization of African Unity, Declaration on a Code of Conduct for Inter-African Relations, Assembly of Heads of State and Government, Thirtieth Ordinary Session, Tunis, 13-15 June 1994 (AHG/Decl.2 (XXX)).

[6] Organization of American States, Inter-American Democratic Charter, art. 9 (Lima, 11 September 2001).

[7] Conference on Security and Cooperation in Europe, "Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE" (1990).

encountered very few examples of policy at the international level to address these types of inequalities, although policies at the national level are more common.[8]

26. The Carnegie Commission on Preventing Deadly Conflict, a three-year research project involving 16 eminent scholars in the field of conflict prevention and resolution, concluded that time and again in the twentieth century, attempts at suppression of ethnic, cultural or religious differences had led to bloodshed, and in case after case, the accommodation of diversity within appropriate constitutional forms had helped to prevent bloodshed.[9]

27. The Bureau for Crisis Prevention and Recovery of the United Nations Development Programme (UNDP) has conducted research showing that the likelihood of conflict increases with rising group inequality.[10] The Minorities at Risk Project at the University of Maryland monitors indicators for political discrimination, cultural and economic exclusion and persecution on 283 minority groups around the world, and has found a significant link between conflict and those forms of denial of rights.

B. Early warning indicators

28. Since minority rights are at the root of a significant number of internal conflicts, incorporating minority rights indicators into early warning systems would enable an earlier identification of potential conflicts.[11] Minority rights violations are often among the root causes of conflicts that have long gestation periods, root causes grounded in grievances that may bubble under the surface for years, or even decades, before violent conflict breaks out. Other more technical early warning indicators, such as small arms flows and movements of displaced peoples, tend to reflect a situation that is already rapidly spiralling into violence. By the time those indicators trigger attention, grievances may have festered for decades, perhaps generations — generations of lost opportunities to heal rifts, avert conflict and build a cohesive society.

29. Some analysts worry about the risk of raising false alarms by flagging concerns at too early a stage. But if the response to an early warning of patterns of discrimination is to work with the Government to set up programmes that correct those patterns, then that has its own value, regardless of the impact on conflict prevention.

30. Clearly it is necessary to combine monitoring of patterns of economic and political exclusion, for example, with an analysis of the political and social context, allowing for an identification of the risk of escalation that is as accurate as possible. Better insight is needed into why certain situations of systematic exclusion escalate

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[8] F. Stewart, G. K. Brown and A. Langer, "Major findings and conclusions on the relationship between horizontal inequalities and conflict", in *Horizontal Inequalities and Conflict: Understanding Group Violence in Multi-ethnic Societies*, Frances Stewart, ed. (New York, Palgrave Macmillan, 2010).

[9] David A. Hamburg and Cyrus R. Vance, *Preventing Deadly Conflict* (New York, Carnegie Corporation of New York, 1997), p. 29.

[10] United Nations Development Programme, *Human Development Report 2004: Cultural Liberty in Today's Diverse World*, pp. 41-42.

[11] S. Srinavasan, *Minority Rights, Early Warning and Conflict Prevention: Lessons from Darfur* (London, Minority Rights Group International, 2006).

from chronic grievances to violent conflict. It may be due to numerous factors, such as the building up of pressure over time to intolerable levels; regime change (many studies have found a link between political transitions and increased incidence of conflict); the emergence of a leader committed to mobilizing the community; or a specific, highly symbolic trigger, perhaps linked to an affront to a community's identity such as the denial of status to a minority language.[12]

31. For the above-mentioned reasons, it has been argued that early warning systems need to combine the collection of disaggregated quantitative data with more in-depth qualitative analysis.[13] Such a course of action would enable the identification of complex interactions between political, social and economic factors that help decide whether violent conflict will break out, and if so, when.

II. Protection of minority rights: a national tool for avoiding violent conflicts

32. Conflict prevention is not the sole positive outcome of respect for minority rights. Societies flourish when all voices are heard, when all opinions are considered; when all citizens participate; and when the talent that exists in all communities is enabled to contribute to political institutions. Inclusion is good for societies as a whole, not just for those previously left out. Consequently, creating the conditions for the effective participation of minorities should be considered by States as an integral aspect of good governance and a key priority in their efforts to ensure equality and non-discrimination.

33. States are at times, however, diverted from acting consistently with this inclusive approach to national self-interest. Minorities are too often seen as a threat to the State and/or national unity. Governments may hold the erroneous views that national unity is fragile or that new States can be achieved only through the denial or disregard of distinctive aspects of the identity of minorities; that demands by minorities for an equal voice in policymaking will dissipate central authority; that respect for minority languages produces cleavages between ethnic groups or translates into prohibitive government expenditures; or that culturally defined production methods have no place in a modern economy.

34. In such situations Governments may become nervous when ethnic, religious or linguistic groups attempt to assert their identity. There may be an assumption that what those groups want is to separate themselves from the State. However, many conflicts involving minorities start as peaceful demands to be included in the society on the basis of equal treatment.[14]

35. Many States are engaged in ongoing efforts to accommodate the interests of diverse communities. Finding the optimal arrangement may be a dynamic process

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[12] Denial of status to minority language has been linked to the onset of conflict in both the Atlantic Coast region of Nicaragua in the 1980s and in Sri Lanka in the 1950s. See S. Brunnegger, *From Conflict to Autonomy in Nicaragua: Lessons Learnt* (London, Minority Rights Group International, 2007).

[13] J. A. Goldstone, "Using quantitative and qualitative models to forecast instability", Special Report No. 204 (Washington, D.C., United States Institute of Peace, 2008).

[14] See *Negotiating Justice? Human Rights and Peace Agreements* (Geneva, International Council on Human Rights Policy, 2006), chap. VII.

and may not be resolved at the first attempt. Some States have repeatedly adjusted the structure of their systems of federalism over many years in an effort to defuse conflict over power and resources. What is important is to ensure that the State provides channels to raise issues and to participate in decision-making; that it constantly reassesses the success of efforts to accommodate diversity; and that it is aware of the different options available.

36. It is critical that the process be guided by the principles of equal treatment and non-discrimination. Communities that may be more populous, that have greater disruptive capacities or military strength or that may be more successful in commerce may emerge at an early stage as the principle contenders for distribution of political power and State resources. However, under such conditions, minority rights must be prioritized, enabling members of all minority groups to participate effectively in decisions affecting them and in all aspects of society.

37. Equally, efforts must be made to give voice to the diversity of members within minority communities, including women, youth and the elderly, and to interest groups such as returning internally displaced persons. The participation of civil society in debates over models for inclusion is essential.

38. National human rights institutions that comply with the principles relating to the status of national institutions for the promotion and protection of human rights ("the Paris Principles")[15] can also play a constructive role in promoting the positive valuing of diversity and addressing issues that could cause conflict. Such institutions may include designated commissioners for minority issues, or separate, dedicated institutions may be established, as is the case with the National Commission for Minorities in India.

A. Effective participation in political life and decision-making

39. The effective and meaningful participation of minorities in the political arena can be a pivotal element in avoiding violent conflict. While members of minorities have the right to participate in decision-making processes, particularly those that affect them, as established in article 2 (3) of the Declaration, the reality is often quite different. Minorities are greatly underrepresented in the political processes and governing institutions of most countries for a variety of reasons. They may be intentionally restricted from participation or inadvertently disadvantaged by laws or policies, or there may be a lack of political will to dismantle structural barriers to the full and equal participation of minorities.

40. In its commentary on the Declaration, the Working Group on Minorities stated that the right to participate in all aspects of the life of the larger national society was essential, both in order for persons belonging to minorities to promote their interests and values and to create an integrated but pluralist society based on tolerance and dialogue (see E/CN.4/Sub.2/AC.5/2005/2, para. 35). The Working Group also emphasized that effective participation required representation in legislative, administrative and advisory bodies, and more generally in public life (ibid., para. 44).

[15] General Assembly resolution 48/134, annex.

41. States have significant leeway to decide, in consultation with minority communities, the modalities by which political participation can be achieved. Those measures may include the devolution of certain powers by means of a federal or autonomy arrangement; an informal council of minority representatives or a statutory body, which is consulted by the executive on matters of concern to the minority; electoral systems based on proportional representation; a system of reserved seats for minorities in parliament; or the facilitated participation in the electoral process of political parties representing the interests of minorities.

42. Modalities for inclusion should always ensure ample representation of minorities at all levels of the civil service, including the police and the judiciary (see A/HRC/13/23). Additionally, it is important to note that the Declaration does not endorse modalities that would violate the sovereignty or the territorial integrity of States. Most importantly, the modality for political inclusion must afford minorities genuine influence. Tokenism or State interference in the process of identifying political representatives, for example, may lead to deeper frustrations. Further, full respect for freedoms of expression and assembly is critical.

43. The most appropriate system will depend on the specificities of the situation, including how populous the communities are, whether they are geographically dispersed or concentrated, the aspirations of the minority groups and how well integrated they are into the broader society. The flexibility of the minority rights framework makes it well suited to the compromises necessary in processes of negotiating solutions, diffusing tensions and avoiding violent conflicts.

44. In November 2009, the second session of the Forum on Minority Issues focused on the issue of minorities and effective political participation. Representatives of minority communities, staff of the relevant funds, programmes and specialized agencies of the United Nations and experts on minority rights participated actively in the session. The Forum produced a set of practical recommendations and affirmed that ensuring meaningful and informed participation and the management by minorities of matters directly affecting them was a means to promote stability and integration in the societies where minorities live (A/HRC/13/25, para. 5). The Forum also recommended that States should consider what special arrangements were needed to ensure that minorities could participate in political processes during situations of transition or conflict (ibid., para. 24).

45. Peace agreements at the end of internal armed conflicts often include some kind of power-sharing institutional arrangement. However, modalities for including minorities in political structures could usefully be identified at earlier stages to avoid conflict. Respecting the right of minorities to political participation at times of peace contributes to harmonious societies and opens non-violent avenues for the grievances of minorities to be addressed.

46. When violent conflict does occur in diverse societies, applying a minority rights-based approach to consultations regarding peace agreements will require that all communities affected by the conflict, including those that are not active parties to it, be able to participate in the settlement process. That approach should counteract a tendency common in many conflict situations, whereby Governments, and to a certain extent the international community, focus predominately on addressing the demands of communities that are linked to armed movements, which may result in peace agreements that guarantee rights for some communities at the

expense of others. That outcome both rewards the use of violence and violates the rights of those not associated with armed movements.

47. A prime example is the constitutional arrangement derived from the General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto (Dayton Peace Agreement) (A/50/790). According to the Constitution of Bosnia and Herzegovina, membership in the House of Peoples and the Presidency are reserved solely to those who identify as belonging to one of the "constituent peoples". That provision has been found by the European Court of Human Rights to violate international legal protections against discrimination on racial or ethnic grounds, and specifically the rights of persons belonging to ethnic groups other than the Bosniacs, Serbs or Croats.[16] Sustainable peace is highly dependent on the participation of all population groups in peace negotiations and resulting State institutional arrangements.

B. Protection of cultural identity

48. At the core of minority rights are the protection and preservation of culturally distinctive identities within societies. The denigration or suppression of the defining identity of a person or group can be a powerful factor in generating conflict. Repressive measures to control or restrict religious or traditional practices or force assimilation can galvanize opposition and bridge other divides that may exist within the targeted communities, thereby creating a common platform around which they can rally. Language, in particular, is a potent vehicle of culture. The imposition on minority communities of a majority language, either through teaching in public schools or formal prohibitions on the use of minority languages, has been a spark that has ignited many violent clashes in every region of the world.

49. The Declaration, in articles 4 (2) and 4 (3), establishes positive obligations requiring that States take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards. It also requires that States take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or have instruction in their mother tongue. In terms of good practice, the Constitution of South Africa provides a good example of how recognition of the diversity of identities in the country, and in particular language rights, has contributed to cohesion and a relatively peaceful transition to democracy.[17]

50. Central to the identity of communities are their historical narratives. Inclusion in the national narrative was a central demand of members of minorities in every country the independent expert visited. Inclusion, in that respect, can be achieved through recognition in national policy statements, history textbooks for schools, museums that celebrate the varied cultures of a country and the contributions of all groups to the national identity, and national days of celebration, to name only a few

[16] See *Sejdić and Finci vs. Bosnia and Herzegovina*, Judgment of the Grand Chamber of the European Court of Human Rights, 22 December 2009 (Nos. 27996/06 and 34836/06).

[17] The affirmation of diversity is in the Preamble; recognition of 11 official languages is in article 6, including provisions to set up mechanisms to promote those languages. Available from http://www.info.gov.za/documents/constitution/1996.

models. Nevertheless, the histories and contributions of minorities are rarely adequately reflected, which contributes to a sense of alienation and exclusion for members of some minorities.

51. To denigrate a community's identity as inferior or stereotype it as violent, criminal or "foreign" is discriminatory, a violation of rights and may constitute incitement to racial or religious hatred. It impacts negatively on community members' sense of inclusion in the national identity and encourages prejudicial attitudes and even violent attacks on the community by members of the public. The slope is steep and slippery between statements of disrespect coming from national leaders and hate crimes committed by individuals who feel they have been given licence.

52. Some conflicts are rooted in the denial or deprivation of citizenship to certain identity groups. Disputes regarding citizenship often arise against the background of pre-existing ethnic or regional conflict, linked in many cases to broader factors of poverty, competition for scarce resources and political instability (A/HRC/7/23, para. 26). The denial of citizenship to a minority community has both a symbolic and practical impact, both of which can be central to the origins of conflict. It sends an unambiguous message about the exclusion of a community as part of the national identity. The denial of citizenship can also mean denial of access to schooling, to health treatment or other services and to political office as well as the constant threat of deportation.

C. Non-discrimination and equality

53. The reality — and often the perception — of discrimination in access to any kind of resources, whether in relation to jobs, land ownership, political power or natural resources, is a strong driver of conflict. The Declaration states, in article 4 (1), that "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law".

54. Economic exclusion is a cause, a manifestation and a consequence of discrimination against persons belonging to minorities. Many minorities have historically been excluded from full and effective participation in economic life, both in the developed and in the developing world. Minorities are often discriminated against when they seek employment, for example, on the basis of their colour, their religion, their language, their names, or even their addresses. Minorities are often poorly represented even in public sector employment and despite legislation that bans discrimination in both public and private sectors. They may face barriers in accessing credit or loans to begin small businesses and may live in the poorest regions or remote areas that offer limited prospects for their economic development. Equally, large-scale economic development projects or commercial activities carried out on the lands and territories where minorities live without their prior consultation has had negative impacts, including displacement, the perpetuation of poverty and, in some cases, violence.

55. Several factors and challenges can exacerbate this exclusion of minorities, including deteriorating economic conditions, ethnic tensions and rising discrimination. In some countries, unequal regional distribution of resources and services as well as lack of basic infrastructure in regions where minorities live often

have the effect of excluding them from fully exercising their economic and social rights. The past decade has also brought into the picture new and unanticipated challenges, including the global food and economic crises that have been proven to have a disproportionate impact on vulnerable groups and minorities.

56. Consequently, the rights of minorities to participate effectively in economic life must be fully taken into account by Governments seeking to promote equality at every level. From implementing non-discrimination in employment to enforcing corporate responsibility principles and developing national economic development and international development assistance schemes, Governments face the constant challenge of ensuring that the rights of minorities are protected and that they benefit as equal stakeholders in society. In their response to the current global crisis, development agencies, financial institutions and other actors involved in international cooperation are also faced with the challenge of ensuring that measures taken to alleviate the effects of the crises do not negatively impact minority rights.

57. Equal access for all communities to employment in public services can become a highly contentious issue, especially in countries where such jobs form a large proportion of the available labour market. In countries where political power is seen to be concentrated in the hands of one or a few identity groups, it is common for those groups to be disproportionately represented in the public service, which can be a powerful source of tension.

58. The adequate representation of minorities at all levels and in all branches of the criminal justice system can have particularly important implications for relations between disadvantaged communities and the Government. Negative encounters with police or security forces at the local level shape minority perceptions of their treatment and acceptance by the State. There may be a lack of understanding of issues facing a minority community or of sensitivities relevant to policing, especially in situations in which minorities experience wider societal discrimination. The policing of minority areas by exclusively majority police forces may inflame tensions and, under certain conditions, lead to the outbreak of violence.

59. Economic exclusion and denial of access to quality education bring about a sense of despair and destroy hopes of upward mobility. As such they are often a central grievance and a source of tensions. International standards on non-discrimination, including the Declaration, place an obligation on States to institute affirmative action policies to correct historical patterns of exclusion and enable members of minorities to achieve equality. Many States have recognized the corrosive nature of inequalities and have implemented such measures. Affirmative action programmes can, however, be a point of contention for majority communities, in particular when poorer members of majority communities perceive that they are losing out. It is important that Governments exercise leadership in educating the larger public, demonstrating that such programmes are based on the principles of justice and equal opportunity and result in fairer and more stable society.

60. Poor education and economic opportunities commonly affect women members of disadvantaged minorities disproportionately. Women may face a scarcity of employment opportunities and discriminatory hiring practices based on prejudice against their minority group. Women generally share a disproportionate burden of caregiving, especially when poverty denies any possible respite or help. The heavy burden imposed on individuals and entire communities by the lack of options often

fuels a disturbing culture of domestic violence. Levels of economic exclusion can be compounded by discrimination in access to other rights, for example civil and political rights, leaving women very limited access to the criminal justice system for their domestic violence cases.

61. A frequent source of conflict worldwide is discrimination and inequality in relation to land and property. For minority communities, often located in remote rural areas, the land and territories on which they live are a source of food security and income generation as well as being vital to the preservation of minority cultures, traditions and collective identity. However, some minorities find that their rights to own, occupy and use land are limited or violated and they may find themselves displaced or evicted, in some cases to make way for national economic development schemes, the activities of multinational corporations or for natural resources development. Land and property issues should consequently be given close attention in respect of conflict prevention.

62. Further issues of importance regarding patterns of discrimination are presented by international development cooperation. In some countries, programmes to promote development implemented by Governments and external donors fail to take into account the inequalities between communities, the unique circumstances of minorities or the possible need for special measures to ensure that minority communities also benefit from such initiatives. Further, minorities may be adversely affected, for example through displacement by large-scale projects such as dams and natural resource extraction, or as a result of the negative environmental impact of such projects. As noted in the report of the independent expert on minorities, poverty and the Millennium Development Goals, conflict prevention is one reason why monitoring poverty alleviation among persons belonging to minorities is crucial: if strategies are successful for some groups but not for minorities, inequalities will increase and so too may tension. Inclusive participation strategies for poverty reduction are proven and effective conflict prevention measures (see A/HRC/4/9, para. 43).

III. A minority rights perspective at the international level: a tool for conflict prevention

63. According to a statistical assessment carried out by Minority Rights Group International, over 55 per cent of violent conflicts of a significant intensity between 2007 and 2009 had at their core violations of minority rights or tensions between communities. In a further 22 per cent of conflicts, minority issues had emerged or receded in the course of the evolution of the conflict. Those figures indicate that Governments, donors and intergovernmental organizations need to allocate significant attention and resources to minority issues as sources of conflict. However, the current picture in this regard is mixed.

A. United Nations institutional framework

64. The tragic events in Rwanda and in the former Yugoslavia gave new impetus to efforts by the United Nations to protect minorities — described by the Secretary-

General as "genocide's most frequent targets"[18] — and other vulnerable population groups. In 2004, the Secretary-General established the mandate of the Special Adviser on the Prevention of Genocide. The principal objective of the Special Adviser is to advise the Secretary-General and the Security Council on actions to protect vulnerable populations from genocide. The Office of the Special Adviser also attempts to identify a range of potential threats to minority populations at an early stage and make recommendations regarding the more constructive management of cultural diversity issues.[19]

65. An analysis framework is used by the Special Adviser's office to identify threats to minority communities at an early stage. In addition to genocide-specific indicators, such as the demonization of minority communities and a history of genocide in the country, it includes indicators of broader significance to minorities, such as conflicts over land, power, security and expressions of group identity, such as language, religion and culture, and attacks on cultural and religious property and symbols.[20]

66. As an essential tool of the early warning aspects of the mandate, the Special Adviser's office is privy to an enormous flow of information generated by sources inside and external to the United Nations system. The Special Adviser's gauge for sifting through that information flow is calibrated for precursors to genocide: an extremely important focus but one that is limited, fortunately, to a small number of situations. Clearly, therefore, there is a need for additional tools that focus on chronic abuses of minority rights at the earliest stages, to identify situations needing more upstream preventive action.

67. By its resolution 60/1 of 16 September 2005, the General Assembly adopted the 2005 World Summit Outcome, in which the States Members of the United Nations conceptualized a principle that is of prime importance to the protection of minorities: the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, more commonly known as "the responsibility to protect". This concept recognizes the duty of the international community to intervene to protect populations when their own Governments cannot or lack the will to do so. It prioritizes above all the use of appropriate diplomatic, humanitarian and other peaceful means, before legitimate force is contemplated through Chapter VII of the Charter of the United Nations.

68. As with the mandate of the Special Adviser on the Prevention of Genocide, the focus of the institutional mechanisms that are being developed to implement the concept of the responsibility to protect will be limited to specific crimes.[21] A broader focus on minority rights protections as a tool for protection from conflict will need to be the task of other mechanisms.

69. A number of offices and agencies within the United Nations system have information assessment, early warning and conflict prevention functions. The Department of Political Affairs is the lead agency for conflict prevention and peacemaking. Within the Department, the standby team of mediation experts, an

[18] SG/SM/9245, 7 April 2004.

[19] Interview with member of the staff of the Special Adviser's office, 10 May 2010.

[20] See http://www.un.org/preventgenocide/adviser/.

[21] See the report of the Secretary-General on early warning, assessment and the responsibility to protect (A/64/864).

innovative unit established in March 2008, plays an important role. The team is on call to provide expertise on specific issues to United Nations initiatives to mediate in situations of conflict or potential conflict. This team has provided support and advice to peacemaking and dialogue efforts in several situations involving minorities, including Darfur, Iraq, Kenya, Kosovo, Kyrgyzstan and the Philippines. The Department has a focal point on indigenous peoples, but not one on minorities. The standby team currently includes an expert on power-sharing, but does not include a professional with more comprehensive expertise on minority rights. The Office for the Coordination of Humanitarian Affairs also has an Early Warning and Contingency Planning Section.

70. The Inter-Agency Framework for Coordination on Preventative Action (Framework team) is an informal forum for inter-agency exchange of information and collaboration involving 21 different United Nations entities (A/64/864, paras. 7-13). The Framework team is a mechanism that shares information on potential crises and works together to support the development of inter-agency conflict prevention initiatives. As such it is a key part of the United Nations conflict prevention architecture. The Framework team is designed to support the Resident Coordinator and the United Nations country team in countries that show early signs that a situation, whether at the regional, national or subnational level, is likely to lead to violence. The programme initiatives are designed to address the issues at the early upstream stage in the conflict cycle, so that the situation does not escalate into overt conflict.

71. Good practice exists at the policy level and in field operations, as illustrated by examples provided by the specialized agencies of the United Nations. The United Nations Development Programme (UNDP) operates an early warning system in some of its in-country programmes, often using sophisticated computer mapping, which is designed to map specific local conditions, such as movements of security forces and displaced peoples, presence of weapons, availability of basic services and access to water sources. In some situations a process of broad consultations with local communities is incorporated. UNDP has developed a capacity to identify the root causes of conflicts, notably through deployment of peace and development advisers to country teams who help in conducting conflict analyses. Experience has shown that context-specific systems that mix qualitative and quantitative indicators and political analysis are effective, if highly resource intensive.

72. The Bureau for Crisis Prevention and Recovery, a conflict prevention bureau within UNDP, currently has no focal point on minorities either; however, UNDP has recently enhanced its understanding of minority issues in development processes through a series of workshops resulting in a resource guide and toolkit for UNDP field staff, which includes guidance on addressing conflict situations.

73. In Guyana, a project carried out jointly by the Department of Political Affairs and UNDP seeks to build national capacities for the promotion of reconciliation between ethnic groups, including through the creation of committees to enable community representatives to work out their issues themselves. In Indonesia, the Bureau spent two years working with Christian and Muslim communities, providing space for reconciliation and consensus-building. Issues such as access to civil service jobs and perceptions of respect for ethnic and religious identity were addressed. Significant improvements were achieved in the level of understanding between the communities and in the level of security.

74. The mandate of the United Nations Children's Fund (UNICEF) does not explicitly encompass conflict prevention; however, UNICEF both generates and monitors country-specific data that reveal situations of emerging conflict. Its activities focusing on the most marginalized and vulnerable women and children position it uniquely to play the kind of early prevention role with respect to minority rights that is contemplated by this report. Given that minority children are often the most disadvantaged, there is a sound basis for the engagement of UNICEF in minority issues. With a wide network of offices worldwide, UNICEF is in an important position to encourage the introduction of minority issues on Government public policy agendas, to support Government efforts and directly deliver assistance to minority children and women. The UNICEF field presence is common in conflict zones, and its focus on protection issues makes it an institution with key relevance to conflict prevention. At UNICEF headquarters, there is a cluster of professionals whose portfolios include minority rights issues.

75. Discussions about pooling the outputs of the early warning systems of the various funds, programmes and specialized agencies of the United Nations and the possible development of a common system have not made significant progress owing to the complexities of the systems and the different needs of each body. An achievable aim could be to pool best practices to be made available to United Nations Headquarters and in-country teams, particularly with regard to innovative new practice using computer technology to compile and process large quantities of context-specific data.

76. The independent expert on minority issues, under the mandate established by the Commission on Human Rights in 2005, has the potential to make a positive contribution to the prevention or peaceful resolution of tensions involving minorities, including by addressing issues of long standing and structural discrimination at the earliest opportunity. In the reports of the independent expert on her missions, she has repeatedly made recommendations to address such situations, based on the concerns voiced by both minority representatives and Government officials.

77. The Special Procedures of the Human Rights Council and the treaty monitoring bodies are well placed to identify the warning signs of impending conflicts, including those affecting minorities. In October 2009, a United Nations round table on Special Procedures entitled "Early Warning and Emerging Issues"[22] was held in New York. The Special Rapporteur on freedom of religion or belief emphasized the contribution that these mechanisms can make to a better understanding of complex situations, for example involving systemic exclusion and discrimination of certain minority groups. Other participants recommended strengthening the capacity of the Special Procedures to contribute to early warning, by ensuring that their recommendations were communicated more effectively to the United Nations field presences, by improving on follow-up to communications to States and by ensuring that data revealing patterns of severe abuses were communicated as early warnings.

78. Historically, channels of communication between the human rights institutions in Geneva and the peace and security bodies in New York have not been optimal. A number of significant improvements have taken place, notably the enhancement of

[22] Available from http://www2.ohchr.org/english/bodies/chr/special/docs/BPRoundTable.doc.

the status of a New York presence of the Office of the United Nations High Commissioner for Human Rights, now headed by an Assistant Secretary-General, and regular briefings to the Security Council by the High Commissioner for Human Rights.

79. Reflecting on the experience of regional intergovermental organizations, including OSCE, the High-level Panel on Threats, Challenges and Change, established in 2003 to consider how the United Nations should address newly arising security, environmental and developmental challenges, recommended that the United Nations build on the experience of regional organizations in developing frameworks for minority rights (A/59/565, para. 94).

B. Regional organizations

80. The Organization for Security and Cooperation in Europe has established a specific mechanism to address conflicts involving minorities, the High Commissioner on National Minorities.[23] The mandate is informed by the minority rights provisions contained in the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (29 June 1990).[24] The High Commissioner acts as an early warning and early action mechanism, primarily through the use of preventive diplomacy. The High Commissioner can visit countries where tensions have arisen between a minority and the State and engage with representatives of both sides. The High Commissioner uses a problem-solving approach to break down the externally voiced positions into an analysis of needs, interests and aspirations, and propose constructive solutions based on a broad knowledge of approaches worldwide.

81. The High Commissioner has developed a number of guidelines to help national and international actors to address issues that have a potential to cause conflict, including education, language rights, political participation and the involvement of "kin States" (States whose majority community is ethnically related to a minority in a neighbouring State).

82. Preventive diplomacy can be most effective when tensions first arise between a Government and a minority, and they are relatively susceptible to third party engagement. Envoys may work discreetly, as the situation is not yet in the glare of national or international media. Parties may be willing to calmly present their concerns, and to explore possible solutions. When a situation develops from these initial tensions to actual incidences of violence, positions begin to harden and resistance to compromise grows. It becomes more difficult for leaders to make compromises as the depth of feeling and emotion among their constituencies increases.

83. As an illustrative example, in the late 1990s the High Commissioner monitored the situation in the former Yugoslav Republic of Macedonia and became very concerned about grievances of the ethnic Albanian population, particularly with respect to access to Albanian-language university-level education and other language rights, as well as the right to run their own media outlets and political participation. He issued an early warning within OSCE and also took a project-

[23] Available from http://www.osce.org/hcnm/13022.html.

[24] http://www.osce.org/documents/odihr/2006/06/19392_en.pdf.

oriented approach to easing tensions around the contentious language issue. The High Commissioner persuaded the Government to adopt a new language law permitting private universities to offer instruction in languages other than Macedonian. He then raised the funds to establish a new university that would offer instruction in Albanian.

84. Another interesting example of good practice is the fact-finding mission organized by the Peace and Security Council of the African Union to Cameroon, the Central African Republic and the Democratic Republic of the Congo, to look into the situation of the migratory pastoralist Mbororo community. The Mbororo have been spreading in migrating waves across the countries in question over thousands of years. The mission was triggered by the increasing occurrence of conflict between the Mbororo and local settled agriculturalist communities with whom they entered into contact.[25]

85. The Peace and Security Council mission recommended a meeting of regional Governments, representatives of the Mbororo and local affected communities, to develop a strategy that would help reduce tension in the most sensitive areas, to consider the delimitation of livestock corridors to be used by pastoralists and to discuss national projects to improve Mbororo integration in the national health and education systems, taking into account their lifestyle (mobile schools and health structures).[26] As ever, the challenge remains the implementation of such recommendations, particularly in countries where resources are at a premium. There is a need for continued, sustained dialogue between Governments and communities concerned and an emphasis on follow-up on the recommendations of such fact-finding missions, ideally with the support of international humanitarian agencies.

IV. Conclusions and recommendations

86. Substantial steps have been taken over recent years to reposition international engagement with conflict situations from the point of reaction to a point of identification of early warnings. There is mounting evidence that one of the earliest indicators of potential violence is the chronic disregard of minority rights. Early warning systems must have the necessary expertise to be alert to such indicators. While there is already a substantial flow of information to early warning mechanisms within the United Nations system, a focus on minority rights should be strengthened.

87. Additionally, while there has been added emphasis placed on the prevention of certain specific crimes, including genocide, war crimes, ethnic cleansing and crimes against humanity, violent conflicts that do not fit those definitions may also warrant additional attention.

88. As the Secretary-General affirmed in his report, early warning does not equate with early action (A/64/864, para. 19). States and international organizations remain reluctant to take action until violence has started. That is regrettable. Too much of

[25] African Union, "Report on the migrations of Mbororo nomadic pastoralists by the fact-finding mission dispatched to the Democratic Republic of Congo, the Central African Republic and Cameroon, pursuant to decision PSC/PR/Comm(XCVII) of the 97th meeting of the Peace and Security Council, held on 25 October 2007".

[26] Ibid.

the engagement of the international community is too late on the conflict continuum that spans from grievances to violence. As conflict situations escalate, the human costs on the ground and the political and financial costs to the international community escalate exponentially.

89. One of the possible benefits of placing more emphasis on minority rights as a tool for conflict prevention may be that it not only facilitates earlier warnings of troubled societies, but also that the corresponding corrective measures are relatively less costly politically. That would increase the likelihood of action being taken earlier.

90. As the former President of the General Assembly, Jan Eliasson, proclaimed, "What a qualitative difference we could have in the United Nations if we moved the focus from the late stages of conflict to the early stages, if we were to spend more time on smoke detection rather than taking care of a house that has already burned down" (A/60/PV.98, p. 4).

91. An early focus on the protection of minority rights at the national and international levels prior to the point when grievances harden into violence would make a substantial contribution towards their protection. In that regard, it may be instructive to evaluate and learn from the relatively successful experience of mainstreaming awareness of the issues of indigenous peoples across the funds, programmes and specialized agencies of the United Nations.

92. In its work in the field the United Nations has developed some excellent practice with regard to minority issues. However, there is no mechanism for or consistent practice of ensuring that minority issues are mainstreamed across the in-country work of entities in the United Nations system, in accordance with article 9 of the Declaration, even in countries where those issues are at the core of local conflicts. At the Headquarters level, in the Department of Political Affairs and in the UNDP Bureau for Crisis Prevention and Recovery, know-how on minority rights could be enhanced to facilitate the development of policies and practices sensitive to minorities. Appropriate training programmes and resources are required for staff throughout the United Nations system, to assist in the early identification by decision makers at the highest level of tensions involving minorities.

Recommendations for the national level

93. **To fulfil their human rights obligations and also as a measure to increase stability and improve inclusive governance, States should implement fully the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, through a process of consultation and cooperation with minority groups.**

94. **States should implement comprehensive anti-discrimination legislation, including measures to prohibit discrimination by both State and private actors. Legislation must provide for effective, transparent enforcement mechanisms which can be accessed easily by all.**

95. **States should monitor the participation of minorities in all areas of economic life, including allocation of jobs within public services, to ensure that members of all communities have equal access without discrimination.**

Requirements, including language qualifications for public service jobs, should not result in the effective exclusion of minorities.

96. **States should monitor economic development projects to assess their impact on minorities, to ensure that they benefit equally with others, and that there is no detrimental effect on their rights.**

97. **Where there are historical patterns of exclusion of members of minorities from employment, business and education opportunities, States should implement capacity-building programmes and other affirmative action measures to enable members of minorities, including minority women, to compete on an equal footing.**

98. **States should collect disaggregated data concerning the access of all sectors of society to economic opportunities and political decision-making. Data should be disaggregated by ethnicity and gender to highlight patterns of inequality that have an impact on minority women in different ways than on minority men. Data collection programmes should be designed with the involvement of representatives of minority communities, should allow for diverse forms of self-identification and should provide effective guarantees of data protection.**

99. **Public proclamations regarding national identity, for example in the constitution, and key national symbols should be fully inclusive, and should not exclude segments of a country's population nor deny, explicitly or implicitly, the full diversity of the population.**

100. **Education curricula should avoid stereotypes and provide a realistic and non-discriminatory image of all communities within society. States should ensure that members of minorities are able to adopt the necessary measures to ensure the protection and promotion of their identity, such as providing mother tongue education and religious education. Education at all levels should have the goal of enabling members of minorities to compete on an equal footing for jobs and other opportunities while preserving their distinct identities.**

101. **States should involve members of all minority groups in conflict prevention and peacebuilding initiatives.**

102. **National human rights institutions should have mandates that explicitly include the protection and promotion of minority rights and expertise in the field of minority rights. Consideration should be given to establishing dedicated consultative and advisory bodies to help ensure that minority issues are adequately addressed at the national and local levels.**

Recommendations for the international level

103. **Minority rights expertise should be strengthened and integrated comprehensively across the United Nations system. Given the prevalence of conflicts involving identity issues, permanent in-house expertise on minority issues within the principal agencies and departments working on conflict prevention would be highly beneficial.**

104. **United Nations staff working on conflict prevention and peacebuilding, particularly those working on policy, analysis and early warning and in country**

teams, should receive comprehensive minority rights training. The United Nations System Staff College, within the framework of the newly established Conflict Prevention Analysis for Action Network, should consider developing modules focused on minorities to improve the understanding of those issues among staff.

105. **Consideration should be given to adding an expert on minority rights to the standby team of mediation experts in the Department of Political Affairs. Additional consideration could be given to involving the team in country situations at an earlier point on the conflict continuum that runs between the expression of grievances to the outbreak of violence.**

106. **The United Nations should develop an inter-agency guidance note on addressing minority issues to include, inter alia: how to consult with minority communities in order to capture the diversity of positions; how to involve civil society organizations working with minority communities in United Nations conflict prevention work; and how to develop context-specific early warning indicators.**

107. **United Nations country teams should analyse the extent to which discrimination on ethnic, religious and linguistic grounds creates disparities in outcomes relating to their programming. Country teams should promote and support the collection of disaggregated data on minorities. All existing programmes should be assessed and revised based on that analysis. Minority communities should participate fully at all stages of programming from research and design to monitoring and evaluation.**

108. **Effective steps should be taken to ensure that the national staff composition of the United Nations country teams is inclusive of persons from minority communities.**

109. **The United Nations should continue to make efforts to share the experiences of a variety of agencies with early warning methodologies, including those systems which combine quantitative and qualitative indicators, and should incorporate minority rights indicators so that all agencies, departments and country offices can draw on the best available practice.**

110. **Communications between the human rights institutions in Geneva and the peace and security institutions in New York should be strengthened further. Regular communications at a working level between the country desk officers of the Office of the United Nations High Commissioner for Human Rights and their colleagues in the Department of Political Affairs and the Department of Peacekeeping Operations would promote the sharing of information and common understanding of minority rights situations in countries.**

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Trafficking in persons, especially women and children

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ezeilo, submitted in accordance with Human Rights Council resolution 8/12.

* A/65/150.

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Report of the Special Rapporteur on trafficking in persons, especially women and children

Summary

The present annual report is submitted to the General Assembly in accordance with Human Rights Council resolution 8/12 and covers the period from 1 October 2009 to 30 September 2010.

The report is divided into three main sections: an introduction, an outline of the activities undertaken by the Special Rapporteur during the reporting period and a thematic focus on the prevention of trafficking in persons, which includes an analysis of various aspects of measures aimed at preventing trafficking in persons, highlighting the importance of the active participation of trafficked persons in designing and implementing such measures. The report also discusses innovative public-private partnerships for the prevention of trafficking in persons and highlights the cross-cutting importance of collecting accurate data on trafficking, as well as of monitoring and evaluation, to ensure the effectiveness of prevention measures. In conclusion, the Special Rapporteur offers recommendations to States in developing and implementing efforts to prevent trafficking in persons.

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I. Introduction

1. The present report is the second submitted to the General Assembly by the current Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolution 8/12. It highlights her activities from 1 October 2009 to 30 September 2010, including a country visit to Egypt in April. The main thematic focus of the report is the prevention of trafficking in persons.

II. Activities of the Special Rapporteur

2. With respect to the activities carried out from October 2009 to February 2010, the Special Rapporteur makes reference to her previous report, submitted to the Human Rights Council at its fourteenth session (A/HRC/14/32). Her activities from 1 March 2010 to 30 September 2010 are briefly set out below.

Participation in conferences and consultations

3. On 22 and 23 March 2010, the Special Rapporteur participated in the Doha Foundation Forum of the Arab Initiative to Combat Human Trafficking, presenting a paper on prospects for the commitment of Arab States to the international conventions on combating human trafficking.

4. On 27 and 28 May, the Special Rapporteur participated in a seminar on a human rights approach to combating trafficking in persons and the implementation of the Recommended Principles and Guidelines on Human Rights and Human Trafficking (see E/2002/68/Add.1) organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Human Rights Council resolution 11/3.

5. On 31 May and 1 June, the Special Rapporteur participated in a panel on trafficking, exploitation and violence at a conference on human rights and migration: realizing a human rights-based approach to the protection of migrants, refugees and asylum-seekers, organized by the Ministry of Interior of Portugal and the Council of Europe, and attended by a representative of OHCHR.

6. On 2 June, the Special Rapporteur took part in a special event on giving voice to the victims and survivors of human trafficking at the fourteenth session of the Human Rights Council, and on 3 June, she presented to the Council her report, which focused on regional and subregional cooperation in promoting a human rights-based approach to combating trafficking in persons. On the same day, the Special Rapporteur participated as a panellist at a side event on implementing victim-centred approaches to human trafficking, organized by the Global Alliance against Traffic in Women.

7. On 28 June, the Special Rapporteur delivered a keynote speech on the status of human trafficking in migrant women around the world and the role of the international community at the International Conference against Trafficking in Migrant Women, organized in Seoul by the National Human Rights Commission of Korea.

8. From 30 June to 2 July, the Special Rapporteur attended the seventeenth annual meeting of special procedures at OHCHR headquarters in Geneva.

9. On 6 and 7 July, the Special Rapporteur took part in the International Members' Conference and Congress of the Global Alliance against Traffic in Women in Bangkok. She spoke as a panellist on the subject of United Nations advocacy strategies and held an informal consultation with the participants on the prevention of trafficking in persons.

Country visits

10. The Special Rapporteur visited Egypt from 11 to 21 April at the invitation of the Government. The preliminary note on the visit, which sets out the Special Rapporteur's initial conclusions and recommendations, was submitted to the Human Rights Council at its fourteenth session (A/HRC/14/32/Add.5). A full report on the visit will be presented to the Council at its seventeenth session, in 2011.

Planned activities

11. The Special Rapporteur plans to undertake country visits to Argentina and Uruguay in September 2010.

III. Thematic analysis: prevention of trafficking in persons

A. Introduction

12. The present report focuses on the prevention of trafficking in persons, which is an integral part of the comprehensive framework to combat and eradicate such trafficking. While the increased attention on the issue of trafficking in recent years has resulted in numerous initiatives and programmes aimed at preventing trafficking in persons, there are concerns that some of them result in the violation of human rights of trafficked persons, particularly when they are not designed on the basis of accurate data and evidence or when the impact and effectiveness are not closely monitored and evaluated.

13. In the light of such concerns, the report analyses various aspects of prevention measures, such as addressing the root causes of trafficking in persons, reducing demand for exploitative labour and services, promoting safe migration and raising awareness of risks associated with trafficking.

14. At the outset, it should be noted that examples and practices cited in the report are not exhaustive and are informed by the Special Rapporteur's previous country visits and her participation in various meetings and conferences. The Special Rapporteur expresses her appreciation for the valuable input provided by international organizations and non-governmental organizations.

B. Prevention of trafficking in persons: theory and practice

15. Through the adoption of the Universal Declaration of Human Rights, Member States pledged to promote universal respect for and observance of human rights and fundamental freedoms. In combating trafficking in persons, this is a fundamental

starting point that which warrants more attention than it currently receives, as violations of human rights are both a cause and a consequence of trafficking in persons (E/2002/68/Add.1, guideline 1). Thus, universal respect for human rights must be ensured not only as a goal in itself, but also as a means of preventing trafficking in persons while placing the human rights of trafficked persons at the centre of all prevention efforts.

16. In developing effective strategies to combat trafficking in persons, the Special Rapporteur has consistently advocated for basing such strategies on "5P's" (protection, prosecution, punishment, prevention and promotion of international cooperation) and "3R's" (redress, rehabilitation/recovery and reintegration of victims to assume a constructive role in the society) (A/HRC/10/16 and Corr.1). The role of prevention is critical in ensuring that the crime of trafficking does not occur in the first place. Despite its importance, the efforts to combat trafficking have been largely centred on a "symptom-specific" approach in that solutions are sought only after particular problems occur.[1] It follows that resources and efforts are often concentrated on prosecuting traffickers or developing assistance programmes for survivors of trafficking but neglect the development and implementation of comprehensive and systematic prevention measures.

17. In examining what the "prevention" of trafficking in persons entails, it is useful to revisit the legal framework and standards on combating such trafficking. One of the fundamental objectives of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) is to prevent and combat trafficking in persons, paying particular attention to women and children. To that end, States parties are obliged to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons. Article 9 of the Palermo Protocol further provides that States parties shall adopt or strengthen various measures to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity and to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

18. Those provisions make clear that prevention measures should address both the supply and demand factors leading to trafficking in persons. In that regard, guideline 7 of the Recommended Principles and Guidelines on Human Rights and Human Trafficking, issued by OHCHR in July 2002 (E/2002/68/Add.1), provides further guidance. The main prevention measures recommended by guideline 7 may be categorized as follows:

(a) Addressing the root causes of trafficking, including poverty, lack of education and discrimination against women and other traditionally disadvantaged groups, with a view to reducing their vulnerability;

(b) Addressing the demand for exploitative commercial sexual services and exploitative labour;

[1] United Nations Children's Fund, "Reversing the trend: child trafficking in East and Southeast Asia" (2009). Available from www.unicef.org/eapro/Unicef_EA_SEA_Trafficking_Report_Aug_2009_low res.pdf.

(c) Increasing opportunities for legal, gainful and non-exploitative labour migration;

(d) Raising awareness about the risks associated with trafficking;

(e) Strengthening the capacity of law enforcement agencies to arrest and prosecute traffickers.

19. It can be gleaned from this guideline that both supply and demand factors need to be tackled in order to prevent trafficking, although prevention efforts may be often perceived as being the responsibility of source countries. Trafficking in persons is a dynamic process, caused by an array of complex and intertwined "push" and "pull" factors. Thus, the prevention of trafficking in persons requires truly concerted and collaborative efforts by all countries of origin, transit and destination.

20. The present report does not focus on the prosecution of traffickers as a method of prevention, although the Special Rapporteur acknowledges that it is an integral element of the fight against trafficking and may play an important role in preventing trafficking through deterrence. There are, however, increasing reports that the overzealous focus on prosecution and law enforcement may adversely affect the human rights of trafficked persons, as observed in some States where trafficking is addressed through the criminalization or prohibition of prostitution. For instance, as a result of the law prohibiting the recruitment of persons for the purpose of prostitution, women and girls who have been trafficked for the purpose of commercial sexual exploitation are often arrested and charged with soliciting prostitution.[2] One non-governmental organization documented several cases in the United States of America where victims of "domestic minor sex trafficking" were arrested by law enforcement officers, prosecuted, criminalized and revictimized by the justice system. In one of the cases, police in Las Vegas arrested a 12-year-old girl who had been picked up by a man in a truck for sexual services, while the police failed to locate and arrest the man.[3] It must also be acknowledged that there is a limit to the deterrent effects of prosecution, owing to the complex nature of the crime, which makes it difficult to successfully prosecute and convict traffickers. For those reasons, the law enforcement approach should not be exclusively relied upon as a prevention method. In the view of the Special Rapporteur, measures to prevent trafficking will not be effective or sustainable unless the underlying social, economic and political factors that create an environment conducive to trafficking are addressed. Through this lens, the report sheds light on prevention measures to address the powerful and complex factors, along a supply/demand continuum, that increase vulnerability to trafficking.

Addressing the root causes of trafficking in persons

21. Strategies aimed at preventing trafficking in persons must address underlying factors that render people vulnerable to trafficking, such as poverty, lack of employment opportunities, sex discrimination and inequality, restrictive immigration laws and policies, war and conflict. The root causes of trafficking and

[2] Global Alliance against Traffic in Women, *Collateral Damage* (2007). Available from www.gaatw.org.

[3] Linda A. Smith, Samantha Healy Vardarnan and Melissa A. Snow, "The national report on domestic minor sex trafficking: America's prostituted children" (Shared Hope International, 2009). Available from www.sharedhope.org.

migration overlap to a great extent; it is thus important to understand the motivations behind people's decisions to leave their homes. In many cases, people leave their homes in search of protection and opportunity. Evidence suggests that more than three quarters of international migrants move to a country with a higher level of human development than their country of origin in order to improve their livelihoods.[4] Millions of people also leave their places of origin either internally or across an international border owing to insecurity and conflict. This signals that in a significant number of situations, the root causes of migration and trafficking can be attributed to the failure of States to guarantee the fundamental human rights of all individuals within their jurisdiction.

22. Women are recognized as the group particularly affected by such failure. In this regard, it is timely and important to recall the States' commitments towards the achievement of the Millennium Development Goals, particularly goal 1 (eradicate extreme poverty and hunger), goal 2 (achieve universal primary education), and goal 3 (promote gender equality and empower women). While the overall poverty rate has been reduced somewhat, some regions, such as sub-Saharan Africa, Western Asia and parts of Eastern Europe and Central Asia, still need to make progress to meet the 2015 targets on poverty eradication.[5] Sex discrimination still persists, and poverty puts girls at a distinct disadvantage in terms of education. Furthermore, women are still largely relegated to temporary or informal employment with little or no social security or benefits. This failure to provide equal and just opportunities for women to education and work encourages the feminization of poverty. This, in turn, compels women to leave their homes in search of better opportunities, resulting in the feminization of migration.

23. In this process, the dynamic force of globalization and trade liberalization exacerbates the feminization of poverty and migration. A number of reports indicate that structural adjustment measures imposed by global financial institutions such as the World Bank and the International Monetary Fund increased poverty, unemployment, inequality and the degree of insecurity in many countries. In many cases, such adverse effects fall on women, as structural adjustment often involves the privatization of the public sector, which reduces access to social services that women may rely on. Trade liberalization may also result in cheap imports so that certain industries dominated by women, such as agriculture and textiles, are not able to survive, causing a loss of employment of the women. These effects all contribute to creating powerful "push" factors for women to migrate to seek employment outside their countries of origin, even at the risk of abuse, exploitation and trafficking.

24. The next question then is: What contributes to trafficking, as opposed to non-exploitative migration? It is important to recognize that there are crucial differences between trafficking and migration in terms of the means used and the purposes of people's movement. The definition of "trafficking in persons" under article 3 (a) of the Palermo Protocol makes clear that trafficked persons are deceived or forced (by threat or coercion) to move for the purpose of exploitation. Thus, while trafficking in persons and migration share the same "migratory space", as both involve the movement of people, trafficking in persons entails movement by fraudulent or coercive means for exploitative purposes. In the light of those factors,

[4] United Nations publication, Sales No. E.09.III.B.1.

[5] Ibid., Sales No. E.10.I.7.

the Special Rapporteur notes that there is a strong causal link between restrictive immigration policies and trafficking. In contrast with trade liberalization, immigration policies have become increasingly restrictive, particularly for people with low skills, despite the demand for their labour in many industrialized countries. While a number of States have deployed immigration control and border security measures in response to the smuggling of and trafficking in persons, such measures are often counterproductive, as many prospective migrants are not deterred by them and would rely on intermediaries to facilitate their entry to destination countries through informal and clandestine channels. In many cases, people decide to leave home not as a matter of choice but as a matter of survival in order to escape from serious violations of their human rights. People's desire to move at any cost creates a lucrative market condition for traffickers and increases migrants' vulnerability to traffickers.

25. Furthermore, it is relevant to take into account the impact of the advancement of information and communications technology, which has contributed to the diversified modus operandi of traffickers. In particular, traffickers increasingly deploy new modes of communication on the Internet, including online advertisements and chat rooms, to lure persons for the purpose of exploitation. The Internet also expands the forms of exploitation for which persons are trafficked, as seen in the growth of child pornography on the Internet (see A/HRC/12/23) and the mail-order bride industry.[6]

26. Thus, a brief analysis of some of the root causes of trafficking shows that there is a wide range of intertwined factors at play. One single factor such as poverty, gender discrimination or lack of employment opportunities per se does not necessarily lead to trafficking; rather, it is the combination of multiple factors that may place certain individuals at a higher risk of being trafficked. Thus, measures aimed at addressing the root causes of trafficking should be based on the recognition that trafficking is caused by a lack of comprehensive protection of such human rights, as freedom from discrimination, the right to work, the right to an adequate standard of living and freedom of movement. As an example, the United Nations Children's Fund (UNICEF) advocates for a comprehensive child protection system rather than measures that focus narrowly on trafficking. In its "system-building" approach, UNICEF promotes shifts towards building and strengthening social welfare, changing social behaviour and improving the legal and justice system for child protection in a holistic manner, based on the principles enshrined in the Convention on the Rights of the Child.[1] This approach can be offered to other groups at high risk of being trafficked, such as women or ethnic minorities, so that prevention measures are designed to protect the human rights of potential victims of trafficking in a comprehensive manner rather than focusing on alleviating one factor. Consistent with this approach, the Special Rapporteur welcomes the recent adoption by the General Assembly of the United Nations Global Plan of Action against Trafficking in Persons (resolution 64/293) in which Member States affirmed their commitment to adopt and implement comprehensive policies and programmes at the national level to prevent trafficking in persons in line with relevant policies and programmes on migration, education, employment, gender equality, empowerment of women and crime prevention.

[6] POPPY Project, "Male-ordered: the mail-order bride industry and trafficking in women for sexual and labour exploitation" (2009). Available from www.eaves4women.uk/Documents/Recent_Reports/Male-ordered.pdf.

27. The need for this "system-building" approach may be illustrated by experiences in poverty-reduction programmes. While such programmes may be often implemented as a preventive measure, experience suggests that increasing economic empowerment alone does not necessarily reduce the incidence of trafficking.[7] In this regard, the International Labour Organization (ILO) stresses the importance of "packaging" interventions so that measures such as microfinance and other income-generating activities are combined with measures to address other factors that create conditions in which people are vulnerable to trafficking.[8] The ILO project to combat trafficking in children and women in the greater Mekong subregion is a good example of how various interventions were integrated into one package and successfully mitigated vulnerability to trafficking. In this project, ILO combined information-sharing, capacity-building, awareness-raising, communication campaigns and direct assistance through employment creation, vocational skills training, educational support and microcredit schemes, particularly targeting at-risk women and children and their families.

28. Prevention programmes should also strategically target individuals who are at particular risk of being trafficked. This essentially requires a careful assessment of the salient characteristics of individuals who are being trafficked from a particular community to understand why they are vulnerable to trafficking.[9] The experience of the United Nations inter-agency project on human trafficking in South-East Asia confirms that research into the circumstances in which people are trafficked is crucial, for it is the most important method by which evidence on the experience of trafficked persons is collected and by which preventive strategies can be made evidence-based, rather than being based on guesses or prejudice. The needs assessment of one village in the Lao People's Democratic Republic carried out by the project reinforces this point. The village was initially targeted for a microfinance project aimed at preventing trafficking, having regard to certain risk factors. This included the fact that the village was one of the poorest provinces, inhabited by the Hmong ethnic minority population, which has limited access to education and a low literacy rate. The needs assessment revealed, however, that there was a low risk of trafficking, as the village was far from the main road and traffickers were not known to be active in the area. Furthermore, the population did not have much aspiration or desire to seek another lifestyle. Thus, while donors were keen to invest resources in this project for the purpose of preventing trafficking, this would have achieved very little in terms of prevention, as the project was not strategically targeted at vulnerable populations.

Preventing trafficking in persons by preventing "demand"

29. Guideline 7 of the Recommended Principles and Guidelines on Human Rights and Human Trafficking notes that strategies aimed at preventing trafficking should address demand as a root cause. Thus, in addition to the supply side, demand for

[7] Mike Dottridge, "Child trafficking for sexual purposes" (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, 2008). Available from www.ecpat.net.

[8] International Labour Organization, *Meeting the Challenge: Proven Practices for Human Trafficking Prevention in the Greater Mekong Sub-region* (Geneva, 2008).

[9] United Nations Office on Drugs and Crime, "An introduction to human trafficking: vulnerability, impact and action" (Vienna, 2008).

exploitative commercial sexual services and exploitative labour also needs to be addressed as one of the root causes of trafficking.

30. Demand for the services of trafficked persons or for commodities they have been involved in producing may come from a variety of sources, including:

(a) Traffickers and others who aim to make money out of someone who has been trafficked;

(b) Individuals who knowingly or unknowingly pay for either their services or products;

(c) An employer who wants a particularly docile or subservient worker;

(d) Businesses that buy services or products from other companies (i.e., a "supply chain").

31. Demand for services is sometimes interpreted to refer primarily to the market for commercial sex, where trafficked women and girls represent a high proportion of those involved in providing commercial sex and demand comes chiefly from adult men and older adolescent boys. However, boys and some adult men are also trafficked for this purpose. Estimates provided by international organizations about the proportion of people who are trafficked to be exploited in prostitution versus those trafficked for other purposes vary, with ILO estimating in 2005 that the largest proportion had been trafficked for purposes other than the exploitation of the prostitution of others[10] and the United Nations Office on Drugs and Crime (UNODC) estimating in its own global report in 2009 that the majority had been trafficked for sexual purposes.[11]

32. So far, only in the case of trafficking for sexual purposes have some activists called for a blanket ban on the activity in which trafficked persons are involved (i.e., prostitution/commercial sex). Whether this is appropriate or effective is the subject of a great deal of comment and impassioned debate.

33. With globalization and changes in demographic trends in developed countries, there is an increased demand for cheap, low-skilled or semi-skilled labour in a wide range of industries, including agriculture, food processing, construction, manufacturing, domestic work and home health care. Those jobs are often dirty, degrading and dangerous and are often not performed by national workers. This gives rise to a significant demand for migrant workers, although this has not been acknowledged or reflected in immigration laws and policies in most developed countries. Furthermore, it is necessary to be cognizant of the gender-specific nature of demand exacerbated by the current economic crisis and globalization, which have caused changes in the international division of labour and labour market demand. As has been observed, the greater demand for trafficked women and girls compared to men and boys has occurred largely in response to this demand-driven reality.[12] Again, the feminization of the labour market results in women being predominantly engaged in the informal sector, characterized by low wages, casual jobs, hazardous working conditions and an absence of collective bargaining mechanisms. It has been

[10] ILO, *A Global Alliance against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2005* (Geneva, 2005).

[11] UNODC, "Global report on trafficking in persons" (Vienna, 2009).

[12] Commonwealth Secretariat, *Report of the Expert Group on Strategies for Combating the Trafficking of Women and Children*, Best Practice series (London, 2003).

argued, consequently, that women are preferred in this sector because they are viewed as submissive, well-suited to simple repetitive tasks, abundant, needy, cheap and pliable.[12]

34. In addressing the demand for exploitative commercial sexual services, it is important to recognize that such demand is socially constructed in that the desire to buy sex is often encouraged by men's need to socially identify themselves as "real men" or "adults".[13] The feminized entertainment and sex industry is predicated on male-centred ideological assumptions: that sex services are largely a male right and a commodity; that commercial providers of sex services are largely women; and that women in prostitution exist as sexualized and commodified bodies.[12] The Special Rapporteur notes that there are divergent perspectives on how to tackle the demand for exploitative commercial sexual services. At one end of the spectrum is the argument that prostitution is inextricably linked to trafficking in persons and thus that trafficking cannot be prevented without curbing the demand for prostitution. On the basis of that approach, some States have adopted legislation that criminalizes the buying or soliciting of sexual services, which has reportedly led to a significant reduction in the number of foreign women engaged in street prostitution, thus creating an unprofitable market for sex trafficking. At the other end of the spectrum, the "free choice" advocates draw a clear distinction between prostitutes who voluntarily work in the sex industry and trafficked persons who are forced to work as prostitutes. They do not view the abolition of prostitution as an effective strategy for reducing the incidence of trafficking and advocate for prostitutes' right to earn their livelihood and to organize themselves to assert their rights.

35. A long-awaited review of a 1998 Swedish law prohibiting the purchase of sexual services was recently published by the Ministry of Justice of Sweden.[14] Although the report is clear in concluding that prohibiting the purchase of sexual services has helped to combat prostitution, the review is less persuasive on the impact on trafficking and states that while it is difficult to assess precisely the extent of sex trafficking in Sweden, there are data suggesting that the scale has been affected by the ban on purchases of sexual services.

36. As has been observed, while proponents on both sides of the debate hold tenaciously to their convictions, there remains no conclusive link between the legalization or criminalization of prostitution and the existence of trafficking for sexual exploitation.[9] Although the Special Rapporteur does not wish to draw conclusions in this debate, she wants to shift the attention away from exclusively tackling consumer demand and to underline the critical need to ensure that undivided attention is paid to prevention strategies that focus on tackling the structural root causes of trafficking while respecting the human rights of trafficked persons. In this context, the Special Rapporteur notes the evidence that the majority of clients of commercial sexual services are not concerned whether the services are provided by persons who are prostitutes by choice or trafficked persons.[15] The evidence also suggests that trafficking results mainly from the demands of employers or third parties (such as recruiters, agents, transporters and others

[13] International Organization for Migration, *Is Trafficking in Human Beings Demand-Driven? A Multi-country Pilot Study*, IOM Migration Research Series, No. 15 (Geneva, 2003).

[14] See summary of "Prohibition of the purchase of sexual services: an evaluation 1999-2008". Available from www.sweden.gov.se/content/1/c6/14/92/75/d95568d5.pdf.

[15] ILO, *Demand Side of Human Trafficking in Asia: Empirical Findings* (Bangkok, 2006).

knowingly participating in trafficking) who control and exploit people, coupled with the lack of labour rights protection that allows exploitation to take place.

37. In this regard, despite her view that demand for all types of commercial sex should be eliminated, the former Special Rapporteur on the human rights aspects of the victims of trafficking in persons reached a different conclusion about the measures appropriate to reduce demand in cases other than prostitution, notably when goods were made by workers who had been trafficked. In her report (E/CN.4/2006/62, para. 59) she expressed the view that:

> States parties need not eradicate demand simply because that demand is occasionally met by goods produced by trafficked labour. For example, the consumer market for athletic shoes could be met occasionally by shoes produced by people who have been subjected to one or more of the means of trafficking listed in the Protocol definition. There are reasonable steps States parties may take to discourage the demand side of such markets without seeking to wholly eradicate the consumer demand for athletic shoes.

38. From this perspective, the Special Rapporteur believes that it is important to address the lack of regulations and labour rights as one of the key structural factors fostering trafficking in persons, whether for sexual exploitation or labour exploitation.[16] In destination countries, the exploitation of migrant workers often takes place in the context of economic activity that is illegal or informal, or poorly regulated or unregulated, or in sectors in which it is difficult to enforce regulatory controls and profit margins are extremely low (CTOC/COP/WG.4/2010/3/para. 15). Indeed, studies show that the demand for exploitative labour or services is almost completely absent where workers are well unionized and labour standards are routinely monitored and enforced.[17] Therefore, it is imperative to address the demand for cheap and exploitable labour and services through the framework of labour rights protection and migration management. A good example of regulation in sectors where trafficked persons are found is the introduction by the Government of the United Kingdom of Great Britain and Northern Ireland of the Gangmasters (Licensing) Act in 2004, which created a compulsory licensing system for all employment agents supplying workers for agricultural activities, gathering shellfish and related processing and packaging activities, supervised by a special licensing authority. Thus, reforming employment laws to check abuses in sectors that have formerly gone unpoliced, such as domestic work in private houses or training and deploying labour inspectors or other officials to check the contracts and working conditions of migrant workers is imperative for preventing trafficking for exploitative labour.[9]

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[16] It should be noted that demand for sexual services by children must be distinguished and separated from this framework of analysis. Pursuant to article 34 of the Convention on the Rights of the Child, States are obliged to prevent the exploitative use of children in prostitution or other unlawful sexual practices. Further, article 3, paragraph 1 (b), of the Optional Protocol to the Convention on the sale of children, child pornography and child prostitution specifies that States parties must ensure that offering, obtaining, procuring or providing a child for prostitution is fully covered under its criminal law, whether such offences are committed domestically or transnationally or on an individual or organized basis.

[17] ILO, "Preventing discrimination, exploitation and abuse of women migrant workers: an information guide", Booklet 6, Trafficking of women and girls (Geneva, 2003).

Increasing opportunities for safe migration

39. The need to address the demand for exploitable labour and services translates into the need to create more opportunities for "safe" migration, that is, legal, gainful and non-exploitative migration. Strategies to address the demand and prevent trafficking should be guided by the recognition of the continuing demand for low- or semi-skilled labour and the promotion of opportunities for regular labour migration, as well as States' obligations to respect, protect and promote the labour rights of all workers, including migrants.

40. However, there are overwhelming concerns that States construct and operationalize the concept of safe migration within the framework of the protection of national sovereignty and border security. As a result, it has been observed that measures to ostensibly promote safe migration and prevent trafficking tend to discourage migration altogether in violation of the right to freedom of movement. For instance, a number of States reportedly prohibit certain citizens from migrating, judging them to be potential victims of trafficking based on their sex, age, status or destination countries. For example, India prohibits any female household worker below the age of 30 from obtaining employment in Saudi Arabia.[18] In this process, women are often disproportionately scrutinized, owing to the perception of their vulnerability and hence the need for State intervention to "protect" them from harm. Thus, some States prohibit women under the age of 25 from migrating without the permission of a guardian, or prohibit women from obtaining travel permits,[19] restricting their freedom to travel in search of a livelihood or educational opportunities.

41. In addition, it is reported that initiatives to intercept potential victims of trafficking at borders are often misguided and abusive, amounting to a violation of their freedom of movement and stigmatization of the intercepted persons in some cases. For example, girls who were intercepted at the border between Nepal and India were stigmatized upon their return to their communities because the organizations carrying out the interception were known to be involved in anti-prostitution work and the girls were thus suspected of having been involved in prostitution.[20] By the same token, some communities have established a community-level vigilance or surveillance committee to prevent trafficking in persons, particularly children. However, evidence suggests that the committees often failed to distinguish between trafficked children and other children leaving their homes to earn money elsewhere, with the result that even adolescents were stopped from migrating from extremely poor villages to seek work in other towns. Destination countries also exercise restrictive immigration control purportedly to prevent potential cases of trafficking. For example, it has been reported that many Brazilian women have been repeatedly denied entry to European Union member States because they looked like prostitutes and thus were suspected to be victims of trafficking.[18]

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[18] Global Alliance against Traffic in Women, "Beyond borders: exploring links between trafficking and migration" (Bangkok, 2010). Available from www.gaatw.org/publications/WP_on_Migration.pdf.

[19] Ibid., "Beyond Borders: Exploring Links between Trafficking and Gender" (Bangkok, 2010). Available from www.gaatw.org/publications/WP_on_Gender.pdf.

[20] Mike Dottridge, *A Handbook on Planning Projects to Prevent Child Trafficking* (Lausanne, Switzerland, Terre des hommes Foundation, 2007).

42. These practices illustrate that some measures directed at countering trafficking or promoting safe migration are misguided and result in violations of the human rights of prospective migrants. Strategies to promote safe migration should not be based on the restriction of migration channels that States may regard as potentially dangerous without concrete evidence. Rather, any prevention strategies should be underpinned by the recognition of freedom of movement and the creation of more opportunities for legal and non-exploitative labour migration. In fact, a lower incidence of trafficking is reported where opportunities for regular migration are available within a multilateral framework or under a bilateral agreement between the sending and receiving States, or where there are otherwise established channels of migration.[21] In this regard, bilateral or multilateral agreements providing for legal labour migration are strongly encouraged. Steps must be taken, however, to ensure that such agreements are consistent with international human rights laws and standards and that the implementation of the agreements is independently monitored so that they do not result in the "exporting" of migrants under abusive working conditions.

43. The provision of adequate information about migrants' rights, as well as practical advice on how to avoid risks during the migratory process and in destination countries, is also an integral aspect of promoting safe migration. While some Governments conduct pre-departure training programmes for prospective migrants, reports indicate that they often fall short of equipping prospective migrants with relevant knowledge about their rights or where to seek assistance when they encounter problems in destination countries. In this respect, some initiatives by non-governmental organizations provide useful lessons. A project aimed at promoting safe migration, implemented by an international non-governmental organization in the Xishuangbanna Prefecture in China, is a good example of how a safe migration channel for children and young people has been created among the places of origin, transit and destination. In this project, the organization raises awareness of potential migrants in the place of origin (Manxixia) and nearby villages on the risks associated with migration and trafficking. The recruiters are registered and linked to the young people who are eligible for and interested in work. In the place of destination, the organization works with the community government of Liming and the youth league of Xishuangbanna Prefecture to raise migrants' awareness of the risks associated with migration, such as labour exploitation and trafficking. The community government also helps to mediate any labour disputes between migrants and their employers. In this manner, migrant children and youths are provided with a comprehensive pre- and post-migration support and protection system.

Raising awareness of risks associated with trafficking

44. Raising the awareness of potential victims about the risks associated with trafficking is an essential part of prevention strategies. A study conducted by UNICEF showed that the vast majority of trafficked children had very little information about the risks of abuse and exploitation. This demonstrates the importance of providing potential victims of trafficking with appropriate and adequate information about the risks of human trafficking. In fact, awareness-raising

[21] ILO, "Getting at the roots: stopping exploitation of migrant workers by organized crime" (Geneva, 2003).

campaigns targeted at potential victims of trafficking appear to be the most common prevention measures in many countries of origin, owing, perhaps, to the lower complexity of designing and implementing such campaigns. While this has resulted in a plethora of large-scale public campaigns in many countries, reports suggest that the campaigns do not always reach groups that are at higher risk, that many of them use detrimental images of women and girls and convey distorted messages about the risks involved in trafficking and that their impact is barely monitored and evaluated.

45. The Special Rapporteur is especially concerned that many awareness-raising campaigns simply use scare tactics to prevent people from leaving home. Such campaigns are counterproductive and cause unintended negative effects. There are reports, for instance, that awareness-raising campaigns resulted in a decrease in children's school attendance because the parents were afraid that their children might be abducted[22] and refusal by some to travel overseas because the traveller thought she would be trafficked if she left the village. Furthermore, some awareness-raising campaigns may result in the unintentional stigmatization of certain groups of trafficked persons, such as women. The Special Rapporteur observed that many of the images and messages used in awareness-raising campaigns tend to focus on women trafficked for forced prostitution, thereby giving the public the wrong impression that trafficking is about prostitution and that all trafficked women are prostitutes. In some countries, such misdirected awareness-raising efforts have reportedly produced overly suspicious law enforcement officers who hinder the exercise by women and girls of the freedom to travel abroad.[2] In addition, such stereotyping and stigmatization may pose obstacles to the reintegration process upon their return to their communities. For example, the Special Rapporteur discovered during her country visit to Belarus that male victims trafficked especially for forced labour in the Russian Federation refused or were very reluctant on their rescue and return to take advantage of psychosocial support designed for the recovery and reintegration of victims owing to the prevailing severe stigmatization in the community of persons who have been trafficked.

46. These analyses provide useful insights into the key elements of effective awareness-raising. First, awareness-raising campaigns must be based on accurate and adequate information. Before embarking on such campaigns, it is important to acquire a solid understanding of the manifestations of trafficking in a given context. Awareness-raising based on inaccurate or insufficient information may leave potential victims off-guard. For example, one study showed that information campaigns in the Republic of Moldova had disseminated information that the main destination country was Turkey, when in reality it was the Russian Federation.[7] It is desirable to conduct a needs assessment or study to identify what the target audience already knows and does not know in order to ensure the maximum impact. It is simply not useful or effective to implement broad-brush campaigns to "stop human trafficking" if the populations do not even know what human trafficking really is.

47. Second, it is important to recognize that awareness-raising is never enough in itself to prevent trafficking and needs to be complemented by programmes that reduce the vulnerability of potential victims and provide them with viable alternatives. Awareness-raising campaigns implemented alone as a preventive measure are based on the assumption that increased awareness of trafficking issues

[22] UNICEF and Terre des hommes Foundation, *Action to Prevent Child Trafficking in South Eastern Europe: A Preliminary Assessment* (Geneva and Lausanne, 2006).

will encourage people to make alternative decisions that minimize their risk of being trafficked. While this may work well in some circumstances, it disregards the dynamic "push" factors that compel people to leave home despite their knowledge of the risks. The anti-child trafficking project implemented by an international non-governmental organization for children from the Egyptian community in Albania is a good example of how the provision of information was combined with efforts to reduce the vulnerability of children who are particularly at risk of being trafficked. After finding that there was a correlation between children dropping out of school and their risk of being trafficked, the organization strategically provided advice and material support to families with children at risk.[22]

48. Third, the powerful role of the media should be fully acknowledged and exploited in awareness-raising campaigns. The media has tended to sensationalize stories of trafficked persons and highlight their "victimhood" rather than educating the public about the underlying social and economic factors that led to the violation of their human rights. Given its influential role and ability to reach wider audiences, however, the innovative use of media should be built into awareness-raising activities. The ILO project to combat trafficking in children and women in the greater Mekong subregion is a good example of the effective use of a radio programme and television drama in Cambodia to provide adolescents with practical information about safe migration and warnings about trafficking. Given the large number of existing information campaigns, it is also useful to deploy innovative methods to disseminate anti-trafficking messages. The MTV EXIT (End Exploitation and Trafficking) campaign, for example, used the power and influence of music, film and celebrity to attract the interest of youths in trafficking issues.[23] In addition to producing a number of documentaries, animated films and music videos, it held live concerts across Asia and Europe featuring local and international artists. It maintains profiles on social networking and video-sharing sites such as MySpace, Facebook and YouTube. The Blue Heart campaign, an awareness-raising initiative launched by UNODC in 2009, also makes use of social networking sites to reach out widely. While the impact and effectiveness of such campaigns needs to be analysed and assessed more closely, the innovative use of media and information technology to reach out to youth appears to have a positive impact.

C. Participation of trafficked persons in developing prevention strategies

49. As provided in the Recommended Principles and Guidelines mentioned in paragraph 4 above, the human rights of trafficked persons must be at the centre of all efforts to prevent and combat trafficking in persons. To ensure that prevention strategies are implemented in a manner that respects the human rights of trafficked persons, it is crucial to ensure the active participation of trafficked persons in designing and implementing them.

50. One of the core values of human rights-based programming is the participation of rights holders in developing policies and programmes that affect their interests. The importance of the participation of rights holders is recognized in a number of international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. In

[23] See www.mtvexit.org/index.php?lang=1.

line with the Declaration on the Right to Development (resolution 41/128, annex), the participation of rights holders should be active, free and meaningful, so that it goes beyond mere consultation and empowers rights holders to reflect their views and expectations in the relevant policies and programmes.

51. In preventing trafficking in persons, the participation of trafficked persons in designing and implementing prevention measures is critical. Policies, initiatives and programmes informed by the voices of trafficked persons will be more effective, as trafficked persons can provide crucial information about why they left their homes and what strategy or support was needed to prevent them from being trafficked. In the context of child trafficking, the participation of children is particularly important, as it empowers them to become the key actors in making decisions affecting their interests and mitigates the power imbalance of adults over children. Furthermore, the role of children is important in awareness-raising and peer-to-peer education, as children are often more willing to listen to their peers than to adults.

52. There are some promising practices of meaningful participation for the trafficked persons. For instance, an ILO awareness-raising programme in Brazil, which targeted young girls at high risk, was designed on the basis of real-life experiences of women who were trafficked and repatriated. There have been also examples of self-help groups formed by returnee trafficked persons that actively design, develop and implement income-generation projects.[24] In the context of children affected by trafficking, the guidelines of the Association of Southeast Asian Nations for the protection of the rights of trafficked children in the region led to a consultation in the Philippines with trafficked children so that their views on which measures would be appropriate to include in the guidelines could be obtained.

53. Notwithstanding these promising practices, it has been observed that ensuring the effective participation of trafficked persons in policymaking processes is often difficult in reality, as officials and policymakers are still unfamiliar with the idea of reflecting trafficked persons' views in Government policies. The Mekong Children's Forum on Human Trafficking and the Mekong Youth Forum illustrate this point. Both involved a series of national forums in countries in the greater Mekong subregion, followed by subregional forums where representatives of each country came together and submitted recommendations to the policymakers of the Coordinated Mekong Ministerial Initiative against Trafficking. At senior officials' meetings in 2007 and 2008, the member Governments expressed and reiterated their commitment to listen to the voices of the children and young people and include their suggestions for addressing human trafficking. While both Forums increased the visibility of children in policymaking processes and sensitized Government officials to the importance of children's participation, it is still unclear how their recommendations are translated into national or subregional policies on combating trafficking.

D. Public-private partnerships to prevent trafficking in persons

54. Because of the effects of globalization, the importance of corporate responsibility to respect human rights has received increasing attention in the past

[24] See, e.g., the work of the Self-Empowerment Program for Migrant Women in Thailand, formed by Thai migrant workers who returned from Japan, many of whom had been trafficked.

decade or so, as evidenced by the development of the Global Compact and the framework for business and human rights formulated by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (see A/HRC/8/5).

55. While these standards do not specifically refer to trafficking in persons, businesses cannot shy away from this issue. Businesses are a significant part of the human trafficking chain, as they could be directly linked to it through the recruitment, transport or receipt of workers for purposes of exploitation. They can also be indirectly associated with trafficking through the actions of others, such as suppliers, subcontractors, business partners, labour brokers or private employment agencies. The active participation of businesses in the fight against trafficking has a number of advantages. To the extent that human trafficking involves many stakeholders and cannot be addressed by a single one of them, the participation of businesses will enhance partnerships and cooperation among all concerned. Such partnerships can, in turn, facilitate the mobilization of resources. Taking part in preventing trafficking is also beneficial for businesses, as it promotes a better corporate image and demonstrates leadership in the area of corporate social responsibility.

56. The recognition of the private sector's role in combating trafficking culminated in the Athens Ethical Principles in 2006 under the leadership of the Suzanne Mubarak Women's International Peace Movement. The Movement has been instrumental in mobilizing the private sector and raising awareness of its responsibility to take part in the fight. Under the Principles, businesses voluntarily pledge, inter alia, to demonstrate a zero-tolerance policy towards trafficking in persons and to contribute to the prevention of trafficking in persons, including awareness-raising campaigns and education. Those commitments were reaffirmed in the Manama Declaration on Human Trafficking at the Crossroads, adopted in 2009 at a conference held in Bahrain.

57. While these are positive developments, the impact of the Athens Ethical Principles and other "soft" legal instruments is still unclear, and numerous challenges lie ahead in ensuring that businesses are not implicated in human trafficking. Furthermore, such instruments do not reach small or medium-sized enterprises or informal industries in which trafficked persons may often be exploited, such as brothels, clubs, bars, factories, restaurants and recruitment agencies. In addition, such enterprises or industries are less concerned about risk to their reputation, which means that profits may be prioritized over the protection of human rights.

58. Nevertheless, there are encouraging signs that public-private partnerships can contribute to the prevention of trafficking, especially through the provision of vocational training and employment opportunities to vulnerable groups. In India, the Ministry of Women and Child Development has been active in promoting the public-private partnership and established the first think tank on public-private partnership to address the issue of trafficking in 2008. This led to the establishment of the Apparel Export Promotion Council to provide training in apparel production to family members of trafficking survivors. The training programme was followed by employment in factories as a means of reducing their vulnerability to

trafficking.[25] In the hospitality industry, the International Confederation of Indian Industry and the International Institute of Hotel Management provided skills training in housekeeping and in goods and beverage retail management. Following the completion of the training, the Andhra Pradesh Tourism Development Corporation (a government agency) and Sinar Jernih provided employment opportunities to successful candidates of this joint training programme.

E. Importance of the methodologies

59. The analysis of different aspects of prevention programmes described above highlights the cross-cutting importance of collecting accurate data when designing the programmes, as well as monitoring and evaluation to ensure their effectiveness.

60. First, in designing measures to prevent trafficking, it is critical to collect accurate data on the incidence of trafficking in persons so that such measures are based on a realistic understanding about why particular groups of people are being trafficked and how traffickers operate. As discussed above, preventive measures developed on the basis of inaccurate information would be ineffective or even have an adverse impact on the human rights of trafficked persons.

61. Second, in order to ensure that preventive measures achieve the desired effect while enhancing the human rights of trafficked persons, such measures should be systematically monitored and evaluated on a regular basis. Some international organizations such as the International Organization for Migration (IOM)[26] and ILO[27] have developed logical frameworks with specific performance indicators that measure progress towards goals in anti-trafficking programmes. However, there is a general lack of systematic monitoring and assessment of the impact and effectiveness of prevention measures, and many assessments commonly report only the project outputs, such as the number of people who have been exposed to awareness-raising activities or given livelihood opportunities. While such reporting may indicate progress towards project goals to some extent, it does not necessarily shed light on the qualitative impact in terms of reducing the incidence of trafficking in persons. Proper impact assessments require measuring the situation before and after the implementation of the preventive measures concerned and identifying how they affected the behavioural change in the communities concerned. In this process, it is also essential to take into account the views of the intended beneficiaries. ILO has developed a participatory monitoring system for its Project to Combat Trafficking in Children and Women in the Greater Mekong Subregion that involves relevant key stakeholders — government officials, project partners and families whose children are at risk of trafficking — in assessing the impact of its activities.[28]

62. Furthermore, in conjunction with monitoring and evaluating the effectiveness of prevention programmes, it is important to assess any unintended negative impact on the human rights of all persons, especially trafficked persons. As discussed

[25] United Nations Global Initiative to Fight Human Trafficking, "Human trafficking and business: good practices to prevent and combat human trafficking" (Vienna, 2010).

[26] IOM, *Handbook on Performance Indicators for Counter-Trafficking Projects* (Geneva and Washington, D.C., 2008).

[27] ILO, "Impact assessment toolkit for trafficking prevention programmes" (Geneva, 2007).

[28] ILO, "Tool for prevention: participatory monitoring: guidelines for practitioners in the fight against human trafficking" (Geneva, 2005).

above, some measures designed to prevent trafficking, although well-intended, may cause more harm to the human rights of trafficked persons than good. In order to ensure the primacy of the human rights of trafficked persons, it is essential that the impact of prevention measures be closely monitored and assessed on a regular basis.

F. Conclusions and recommendations

63. The present report illustrates how efforts to prevent trafficking in persons should address multiple factors on both the supply side and the demand side, which are often complex and intertwined. Owing to such complexity, it appears that prevention strategies are often implemented in ad hoc manner, without the underlying economic, social, cultural and political factors that create conditions of vulnerability to trafficking being taken into account. For prevention measures to be effective, they must be based on an accurate assessment of factors that increase people's vulnerability to trafficking, as well as strategies to enhance the protection of human rights of potential victims of trafficking in a comprehensive and holistic manner at all stages of their movement. This highlights the importance of consulting trafficked persons, including children, to understand what factors increase people's vulnerability to trafficking and how they may be effectively addressed. Furthermore, it makes it clear that the prevention of trafficking in persons requires concerted efforts by all stakeholders, involving not only source, transit and destination countries, but also other non-State actors with the power to influence the trafficking chain, such as businesses and civil society organizations.

64. The recommendations of the Special Rapporteur are set out below.

Addressing the root causes of trafficking

65. **States are urged to address underlying factors, such as poverty, high unemployment rate, lack of human security and gender-based discrimination that increase people's vulnerability to trafficking by respecting, protecting and promoting their human rights in a comprehensive and holistic manner. States should combine different interventions so that the multiple violations of human rights that generate conditions of vulnerability to trafficking are addressed as a whole.**

66. **Without prejudice to the human rights of trafficked persons, States should carefully examine the characteristics of individuals who are trafficked from a particular community in order to effectively address factors that increase people's vulnerability to trafficking.**

Addressing demand for exploitative labour and services

67. **Demand for exploitative labour and services, particularly demand by employers and third parties involved in trafficking, should be addressed as a root cause of trafficking. To that end, States should develop or strengthen immigration policies informed by the evidence-based recognition of the demand for migrant labour, including low- and semi-skilled labour.**

68. **The protection of the human rights of migrants is of paramount importance in preventing exploitation that leads to trafficking. Thus, States should respect, protect and promote the human rights of migrants, particularly**

labour rights in sectors where such protection has traditionally been weak or absent, such as domestic work. To that end, States should sign, ratify and enforce all relevant human rights instruments, in particular the Palermo Protocol and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

69. **States should build skills and institutionalize capacities, in particular those of law enforcement officers, including labour inspectors, so that they intervene appropriately to prevent trafficking in persons rather than dealing with the aftermath.**

Increasing opportunities for safe migration

70. **Border control and security measures developed and implemented as a response to trafficking should be in compliance with international human rights standards and should not interfere with people's freedom of movement. Freedom of movement should be guaranteed to all migrants and should not be denied merely on the basis of their profile, including age, sex, nationality or social status.**

71. **States should recognize that creating opportunities for regular labour migration that respond realistically to the economic and societal demand for such migration rather than artificially restricting legal migration channels is the key to preventing trafficking in persons. Among other measures, States should actively seek to adopt bilateral and multilateral agreements providing for legal labour migration, particularly for low- and semi-skilled labour. This should be designed, implemented and monitored with the active participation of migrant workers themselves to ensure their effectiveness in promoting safe migration.**

72. **States should increase efforts to reach out to populations at a higher risk of being trafficked and disseminate accurate and realistic information about risks of migration and trafficking, as well as practical advice on how to seek assistance when prospective migrants face problems.**

73. **Migrants' States of origin should provide all prospective migrants with pre-departure training that respects human rights and provides realistic information about the risk of abusive forms of migration. Receiving States, in cooperation with embassies and consular authorities, should provide migrants with orientation training upon their arrival that informs them about their rights and obligations as migrants, including remedies available for abuse and exploitation by employers and other parties.**

Raising awareness about risks associated with trafficking

74. **States should ensure that awareness-raising campaigns are based on accurate information as well as a baseline analysis of what the target audience does or does not know. Information should be easily accessible, and appropriate channels of communication should be used to reach a target audience.**

75. **States should recognize the limited effects of awareness-raising in preventing trafficking, and should combine awareness-raising activities with measures to address the root causes of trafficking and provide prospective migrants with alternatives.**

76. **Appropriate messages about the risks of trafficking and what people should do to avoid or minimize them should be institutionalized at all levels of education so as to reach young people before they fall prey to unscrupulous traffickers.**

77. **States should recognize the power of the media in raising public awareness about risks associated with trafficking. In cooperation with civil society organizations, States should ensure that the media are provided with training so that they do not stigmatize trafficked persons and so that they disseminate accurate information about the risks of trafficking in persons.**

78. **New technologies, in particular social networking, should be creatively and vigorously used and sustained to prevent and combat all forms of trafficking in persons, although it is recognized that its usage is limited in certain countries owing to the digital divide and access-related problems based on geographical location, age and gender differences.**

Methodologies

79. **States should reinforce efforts to collect accurate data and statistics on trafficking in persons that will inform evidence-based comprehensive prevention strategies. Such collection and analysis of data on trafficking should extend beyond collecting general statistics and encompass careful research and analysis of the characteristics of individuals who are at higher risk of being trafficked, as well as profiles of traffickers and their modus operandi.**

80. **States should build into their prevention programmes monitoring and evaluation tools in order to rigorously assess their impact and effectiveness. In carrying out monitoring and evaluation, due regard should be paid to any unintended consequences on the human rights of trafficked persons.**

Participation of trafficked persons in designing and implementing prevention programmes

81. **States should actively involve trafficked persons in designing, implementing and monitoring measures to prevent trafficking in persons. States should increase transparency in policymaking processes and make relevant information available to trafficked persons to facilitate their participation. States should institutionalize the participation of trafficked persons by creating specific channels for such participation within the policymaking process.**

Public-private partnerships in preventing trafficking in persons

82. **States should acknowledge the influential role of the private sector in the global fight against trafficking and seek to actively engage them and hold them to account in preventing trafficking in persons in their sphere of influence, as well as have specific roles for them in national action plans.**

83. **States must demonstrate serious commitment and political will as part of the effort to regulate businesses, in particular recruitment and tourism agencies and the entertainment and sex industries. In that regard, public officials who collude with traffickers should be equally penalized.**

84. **Businesses are urged to sign to both the Global Compact and the Athens Ethical Principles, which underscore the importance of respect for human rights by businesses and their participation in fighting the menace of human trafficking in all its forms, especially in the production chain and the tourism industry.**

85. **Finally, States are urged in all the key areas identified above to strengthen cooperation among Governments, international organizations and non-governmental organizations in designing, implementing, monitoring and evaluating preventive activities to end all forms of trafficking in persons, especially women and children.**

United Nations A/65/289

General Assembly

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Sixty-fifth session
Item 124 (m) of the provisional agenda*
Cooperation between the United Nations and regional and other organizations: cooperation between the United Nations, national parliaments and the Inter-Parliamentary Union

Letter dated 10 August 2010 from the Permanent Representative of Namibia to the United Nations addressed to the Secretary-General

I have the honour to transmit to you, on behalf of the Namibian Presidency of the Inter-Parliamentary Union, the text of the following four documents, adopted by the 3rd World Conference of Speakers of Parliament, in Geneva on 21 July 2010:

Declaration adopted by the Conference (annex I);

Report on how parliaments organize their work with the United Nations (annex II);

Report on strengthening the Inter-Parliamentary Union and its relationship with the United Nations (annex III);

Report on building global standards for democratic parliaments (annex IV).

I should be grateful if you would circulate the present letter and its annexes as a document of the sixty-fifth session of the General Assembly under item 124 (m) of the provisional agenda.

(*Signed*) Kaire M. **Mbuende**
Permanent Representative

* A/65/150.

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Annexes to the letter dated 10 August 2010 from the Permanent Representative of Namibia to the United Nations addressed to the Secretary-General

Annex I

3rd WORLD CONFERENCE OF SPEAKERS OF PARLIAMENT

United Nations, Geneva, 19-21 July 2010

21 July 2010

DECLARATION ADOPTED BY THE CONFERENCE

Securing global democratic accountability for the common good

(1) Accountability and representation lie at the heart of democracy. Parliament is the central institution of any democracy through which the will of the people is expressed, laws are passed and government is held to account. We, the Speakers of the world's parliaments, have convened at the United Nations in Geneva to discuss how our parliaments can help secure democratic accountability worldwide for the common good.

(2) Since our last summit in 2005, the world has undergone complex and profound changes. We are living in an increasingly multi-polar world characterized by deepening economic globalization coupled with radical changes in international economic relations and the balance of power. We also see greater support for multilateralism and the promotion of democracy in international relations.

(3) Since 2005, economic growth and development have been stymied by a global financial and economic crisis. Although it might seem that the global economy today shows signs of recovery, the economic foundations remain weak with deep-rooted structural problems that have not yet been addressed. Several States have seen their public deficits worsen following interventions in the banking and financial sector. The global development gap is still widening. The economic crisis is compounded by challenges relating to climate change, food and energy security, trafficking in persons, migration and public health, the solutions to which still elude us. Devastating natural disasters have become more prevalent and non-traditional security threats such as terrorism, proliferation of weapons, drugs trafficking, piracy and other forms of organized crime have increased substantially.

(4) Terrorism, by undermining peace, democracy and stability, continues to be one of the most serious threats faced by all humankind. We have an important responsibility to facilitate our governments' efforts to combat terrorism by implementing all relevant UN resolutions and international conventions and agreements. We encourage States to show solidarity and take collective global action against terrorism by adopting, sooner rather than later, a comprehensive convention against all forms of terrorism.

(5) We are more than ever convinced that only by working together can we address these and other global challenges successfully and make a better world for all people. While we may differ on matters of policy and action, we are unanimous in our belief that all countries, large and small, rich and poor, need to work together,

seeking solutions, including through multilateral channels, with the United Nations, which guarantees the sovereign equality of States, at the centre. We reaffirm the commitment of our parliaments to engage fully in support of this effort.

A. Parliaments and democracy

(6) Our parliaments are national institutions, marked by the history and cultural heritage of each of our countries. We are proud of our sovereign independence which it is our right, duty and wish to defend.

(7) We recognize that democratization is a continuing process for all parliaments and that it is necessary to promote sound democratic practices within our parliaments, whether they are recently established or have been in existence for centuries. We are committed to assisting each other in this effort, with the stronger institutions providing assistance to the weaker ones, with increased sharing of good practices for the greater benefit of all, and with a constant concern for the fuller participation of our citizens in national and global governance in the interests of the common good.

(8) As a collegiate body of the world's parliaments, we rely on the collective experience and wisdom of our members. Together we pledge to make our parliaments more representative, transparent, accessible, accountable and effective, enabling the diverse components of society to participate in politics. We will also promote standards of integrity for parliaments and their members, recognizing that membership of parliament is first and foremost a public service, and will uphold the highest standards of ethics and integrity in public life.

(9) Democracy is founded on the rule of law and respect for human rights, which are based on the precept that nothing must infringe upon human dignity. We reaffirm the need to ensure the equal rights and opportunities of men and women, thus promoting a genuine partnership between them in all spheres. We pledge to help promote a climate of tolerance and to safeguard diversity, pluralism and the right to be different, which also implies protecting the rights of persons belonging to minority and indigenous groups.

(10) We emphatically state that the proportion of women in parliament today is not sufficient and we pledge to redouble our efforts to reach, as a global average, the internationally agreed target of thirty per cent of women in parliaments by 2015. We undertake to combat all forms of discrimination against women which prevent them from realizing their aspirations to greater involvement in public life.

(11) We emphasize the importance of encouraging our youth to invest their energy, enthusiasm and creativity in the advancement of our societies and the promotion of mutual understanding. We urge our parliaments to address the concerns and aspirations of youth and encourage the participation of young people in public life.

(12) We are preoccupied by a widely held perception of politics as a closed space where there is little room for opposing opinions and consideration of alternative policies. We will do all we can to ensure that the rights of all members of parliament are guaranteed; they must be free to speak out without fear of harassment or punishment, even when they do not toe the party line. Equally, we are committed to fostering political tolerance among citizens and political leaders through education and communication.

(13) Defending our parliaments also means that we will be outspoken in our condemnation when parliaments are dissolved in breach of the national constitution or when members of parliament are arbitrarily deprived of their mandate or otherwise have their human rights violated. We have seen a number of instances of this in recent times. We condemn the usurpation of political power by force and the persecution of elected representatives of the people.

B. Parliaments on the international stage

(14) We believe that, in all likelihood, the world will continue to be confronted by crises that will pose tremendous challenges to the prevailing order. Such crises, however, if they are managed democratically, can provide a springboard for vital and regenerative change.

(15) We are concerned that this is not generally the case at present. The democracy gap persists. Many would say it is widening. Those who have never had a voice in domestic or global affairs remain marginalized or excluded altogether.

(16) While the recent convulsions that began with a financial crisis are diminishing, millions continue to suffer from the aftershocks. For untold numbers of people, especially in the developing countries, the challenges of daily survival have worsened. The suffering will endure and, if nothing is done, go largely ignored or unnoticed. We remain convinced that one vital way to bridge the growing gap between those who have the means to live comfortable lives and those who are wholly dispossessed is to make multilateral institutions more democratic and representative, and establish more participatory practices at the international level.

(17) The time has come for an imaginative leap of faith. Today's multilateral systems should allow for much greater consideration for the thoughts, feelings and aspirations of people everywhere whose voices go unheard.

(18) We therefore call once again for greater parliamentary involvement in international cooperation and we reiterate the recommendations we have made at our past two conferences. We emphasize that our parliaments must be more active in international affairs by contributing to and monitoring international negotiations, by overseeing the enforcement of agreements that have been reached by governments and, more generally, by ensuring national compliance with international norms and the rule of law.

(19) Building political will and public support and ensuring national ownership and effective implementation of international agreements can only come about if parliaments and their members are well informed and actively engaged, both nationally and internationally, throughout the consultation and negotiating process. We are committed to strengthening our capacity to assume this role, without prejudice to the separation of powers, and we call on our governments to work with us to this effect. Wherever possible, we intend to ensure that parliamentarians are included in national delegations to major United Nations meetings and multilateral negotiating fora.

(20) Our involvement in international cooperation must be firmly rooted in the daily work of our parliaments, much of which relates to ensuring accountability. It is therefore essential that our parliaments play an important role in overseeing the implementation of governmental programs to address major challenges, such as poverty, access to water, climate change, food and energy security.

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(21) We acknowledge the growing significance of regional and sub-regional parliaments and their contribution to international cooperation. We reiterate our earlier calls on the IPU to cooperate more closely with these institutions with a view to enhancing coherence and efficiency in global and interregional parliamentary cooperation.

C. The United Nations

(22) The United Nations is the most universal, representative and authoritative international organization of sovereign States and it plays an irreplaceable role in international affairs. We pledge our support to the Organization and will continue to extend our cooperation in keeping with the purposes and principles of the United Nations Charter.

(23) We take note of the reforms undertaken so far by the United Nations. It has established new bodies that are beginning to prove their worth, and is working to bring more logical coherence to its operations at the country level. There is, however, need for further reform to enhance its legitimacy and effectiveness by making it more democratic and representative. We encourage the United Nations to continue this exercise, particularly by revitalizing the UN General Assembly and reforming the Security Council to take account of today's realities. We also believe that Member States have to invest more in development, global peace and security, and human rights, and in integrating gender equality into all UN programs and activities.

(24) We support the tireless efforts by the United Nations in pursuit of world peace and security. We applaud the renewed focus on preventive diplomacy and peace-building, and remain firmly convinced that democratic, strong and effective parliaments are vital to sustainable peace. We commend the United Nations Secretary-General for his five-point nuclear disarmament proposal, and pledge to pursue efforts towards a nuclear-weapon-free world.

(25) We commend the United Nations for enshrining the world's development objectives in the Millennium Development Goals. We endorse these goals and the 21 targets into which they are translated. Much has been done to meet these targets, but if current trends persist, an alarming number of them may not be met. Governments, and in particular those from the industrialized countries, must honour the pledges they have made to fund these efforts notwithstanding the difficulties engendered by the financial and economic crisis.

(26) In this, as in so many other areas, we all stand to gain from building a closer and more powerful relationship between parliaments and the United Nations. The Millennium Development Goals will not be met without a strong sense of accountability accompanying all efforts. Democracy, security, development, human rights and gender equality are inextricably linked. Our parliaments can do more to ensure that development goals are taken into account in our daily work and translated into national programs and laws. Likewise, we encourage our parliaments, when they examine draft budgets and bills, to assess their impact on the fulfillment of the Goals. We pledge to support these efforts, monitor progress closely and do our part in meeting the targets by 2015.

(27) We recognize that much has already been achieved by the United Nations. Looking back to our first summit in 2000, we see ten years of encouraging progress. Our parliaments have gained from an awakening within the United Nations to our crucial role in providing the legislative foundations for development and in strengthening the rule of law which is essential to development. Recent summit

outcomes have acknowledged this, particularly in the area of development aid. The United Nations has also started to realize the need to support fragile parliaments as it sets out to rebuild states emerging from conflicts. The United Nations has also shown a new interest in keeping parliaments duly informed of their agenda and activities.

(28) Yet much more needs to be done and we look to the Inter-Parliamentary Union to help forge a closer and more effective working relationship between the United Nations and our parliaments.

D. The Inter-Parliamentary Union

(29) We take pride in the IPU and its many accomplishments stretching over three centuries. Our predecessors who founded the Organization over one hundred and twenty years ago and their successors have helped lay a solid foundation for international political cooperation and multilateralism.

(30) Today, the IPU is the world organization of parliaments. It facilitates political debate, dialogue and cooperation within and between parliaments. It promotes and defends democracy. It develops standards, disseminates good practices and provides concrete support in constructing democratic parliaments. It builds capacity in our parliaments in support of peace, security and development. It defends the human rights of members of parliament and promotes respect for universal human rights norms and principles. It works in support of gender equality and women's participation in political and public life. It assists our parliaments in coping with a growing international agenda and in developing a parliamentary dimension to the work of the United Nations.

(31) We invite the IPU to strengthen and rationalize its programs in support of our parliaments and to facilitate cooperation projects among parliaments. We view the Organization as a center of excellence in relation to parliaments and democracy and we wish to see the IPU developing this work further. The IPU can also do more to assist our parliaments in addressing the Millennium Development Goals and in coping with some of today's foremost global challenges.

(32) We affirm that the IPU is the international body best suited to help build the relationship between parliaments and the United Nations. As an Observer to the United Nations since 2002, the IPU has played this role to increasing effect. We encourage the IPU and the United Nations to expand their cooperation and set it on a firmer footing.

(33) In keeping with the recommendations of the first two Speakers' Conferences to bridge the democracy deficit in international relations, we also encourage the IPU to promote greater accountability and transparency of the Bretton Woods institutions. The IPU can do this by facilitating more direct interaction between parliaments and the Bretton Woods Institutions, and by helping to strengthen the capacities of parliaments to exercise their role in the budget process and economic decision-making in general.

(34) We welcome the discussion which has been started within the IPU in order to strengthen its functions, promote its efficiency and develop its cooperation with the United Nations and its institutions.

(35) We conclude our deliberations with a sense of cautious optimism. The world is facing multiple crises on an unprecedented scale. As never before, however, there is a shared understanding that we can only address these challenges by working together and we, who have a popular mandate to represent the people, will not be found wanting. We, in our parliaments,

can and will do our part in securing global democratic accountability for the common good of humankind.

Annex II

3rd WORLD CONFERENCE OF SPEAKERS OF PARLIAMENT

United Nations, Geneva, 19-21 July 2010

Item 2

SP-CONF/2010/2-R.1
1 July 2010

REPORT ON HOW PARLIAMENTS ORGANIZE THEIR WORK WITH THE UNITED NATIONS

Rapporteur: Mr. D. Astori, President of the Senate of Uruguay

In 2007, in order to better respond to the growing cooperation between the IPU, its Member Parliaments and the United Nations, the IPU's governing bodies established a Committee on United Nations Affairs. The Committee meets in plenary once a year and is tasked with examining how parliaments and the IPU organize their work vis-à-vis the United Nations, convening hearings with senior UN officials, looking at the overall working of the United Nations and its reform, and evaluating progress in IPU-UN cooperation and proposing strategies for further action.

As part of its evaluation exercise, the Committee decided to draw on the experiences of national parliaments in dealing with the United Nations: their needs and expectations, good practices that they have developed, and challenges and opportunities for improvement. Under the Committee's guidance, a survey was developed and submitted to parliaments for their response.

Ninety-six parliaments took part in the survey, which examined how parliaments relate to the United Nations and its General Assembly, how they interact with special UN meetings and major negotiating processes that lead to conventions and international agreements, how they work with UN country offices, and what the IPU can do to promote greater interaction between parliament and the United Nations. The main findings of the survey are presented below.

How do parliaments relate to the United Nations and its General Assembly?

By and large, issues relating to the United Nations are dealt with in the plenary or in the committee on foreign relations/international affairs. In a few countries, UN matters are addressed in other parliamentary (standing or select) committees, depending on the subject matter. Such is the case for the committees dealing with human rights in Cyprus, human resources and social and community development in Namibia, capacity-building in Bahrain and health in Kenya. A small number of parliaments, such as those of Bangladesh, Germany and Sudan, have dedicated UN committees or sub-committees .

In many countries, there is little or no direct interaction between parliaments and their country's Ambassador/Permanent Representative to the United Nations. Information and answers to questions from MPs generally seem to be relayed through the ministry of foreign affairs. Instructions or national mandates given to the Ambassador to the United Nations are only occasionally addressed in parliament through debate or questions. The vast majority of parliaments indicate that instructions on UN matters rarely require their approval.

Over 70 per cent of respondents report that MPs are included in national delegations to the UN General Assembly, with 46 per cent doing so always or often. Australia, Bangladesh, Denmark, France, Gabon, Georgia, India, Norway, Pakistan, Senegal and the United Kingdom are among the countries that always include MPs in national delegations to the UN General Assembly. In most countries, this practice tends to be more sporadic and of an ad hoc nature. About one third of the respondents indicate that MPs are never included in UNGA delegations.

While in most cases MPs do not stay for more than a week, for example during the opening of the General Assembly, MPs from Australia, Hungary, Kenya, Morocco and the Netherlands remain throughout the autumn session of the General Assembly.

The role of MPs in UNGA delegations varies. Generally, they come to attend, listen, observe and familiarize themselves with UN activities and processes. In only a few cases - Austria, Bangladesh, Italy, Islamic Republic of Iran, Namibia and Sweden - do MPs assume a more active role by participating in UN Committee work, delivering statements, debating and bringing a parliamentary perspective to the proceedings of the United Nations.

In most countries, the Government provides information to parliament on the nation's financial contribution to the United Nations (general budget, peacekeeping, etc), its agencies and programmes. This, however, is usually done indirectly, as contributions to the United Nations are listed under the budget executed by the ministry of foreign affairs, which goes to parliament every year for approval and adoption. When such budget information is not provided through regular channels, it can be made available upon request or through official questioning in Parliament.

How do parliaments interact with special meetings and major negotiating processes at the United Nations?

There is little evidence of systematic parliamentary involvement in the preparation and follow-up to special meetings of the United Nations. Only about one quarter of the respondent parliaments indicate that MPs are frequently or regularly included in national delegations to such special meetings. Even fewer - 12 per cent - systematically organize debates and hearings to prepare for and follow up on the outcome of such UN meetings. Twenty-six per cent never do so and about 60 per cent do so only occasionally.

Most parliaments do not regularly monitor major international negotiating processes taking place at the United Nations. They do not regularly hold hearings with the minister who takes part in the negotiations, or provide instructions or mandates. Parliamentary involvement in negotiations leading up to the conclusion of legally binding commitments

by States normally only takes place towards the end of the process. At that point, parliaments are informed of the outcome of the negotiations. More often than not ministers simply report to parliament. At some stage, parliament is invited to ratify the agreement.

Only in a handful of countries is Parliament part and parcel of the process of reporting on the implementation of international agreements. The Parliaments of Austria, Gabon, Georgia, Ireland, Namibia and Tunisia have put in place procedures whereby country reports on the implementation of UN conventions are submitted to parliament. Parliament organizes debates and hearings on these reports. Members of parliament from these countries are part of the delegation attending the periodic review by the UN monitoring committee (where the country report is discussed). The recommendations subsequently issued by the UN monitoring committee are conveyed, discussed and followed up in parliament. In most of these cases, a specific parliamentary committee is tasked with advising and monitoring progress in the implementation of these agreements.

Even when legislators are not directly involved in such a process, they are still in a position to secure information through reports of foreign affairs ministries and parliamentary committees, parliamentary libraries, IPU and UN meetings, and the media. In several countries, it is standard practice for parliament to organize debates on key international issues or events, or to convene regular question and answer sessions with government officials.

How do parliaments work with UN country offices?

Very few parliaments (about 12 per cent) have regular and systematic interaction with UN country offices. When it does take place it is generally ad-hoc, or takes place on the occasion of special anniversaries (International Days, the launching of UN and country reports and publications, etc). In many instances, it is the United Nations that initiates cooperation or joint activities in parliaments, though developing country parliaments do request seminars and training. Many parliaments report on activities – including technical assistance - initiated by the United Nations Development Programme (UNDP) and other UN bodies such as the Joint UN Programme on HIV/AIDS (UNAIDS), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund (UNFPA) and the World Health Organization (WHO).

Developing country parliaments receive support from the United Nations in the form of capacity-building, technical assistance and development programmes. Ethiopia, for example, receives assistance from the United Nations to train parliamentary staff, improve its facilities, and obtain computers, books, and transportation and resource persons. Namibia receives UN funding which facilitates field missions by MPs to perform parliamentary oversight functions, while in Pakistan, UNDP runs a parliamentary development programme.

Many parliaments receive training and technical assistance from the United Nations in areas such as legislative drafting, procurement, human resources and the improvement of facilities. This support is driven by supply rather than demand. There is generally a lack

of strategic planning and engagement by parliaments in setting priorities and developing assistance projects.

The issue of how parliaments work with UN country offices is also analyzed in the context of the programme of work of the IPU Committee on UN Affairs and of the Committee's Advisory Group. The Advisory Group undertook field missions to Tanzania (September 2008) and Viet Nam (February 2009), to examine the process of One UN reform, which is aimed at building greater coherence in the delivery of international development assistance.

In both cases, the findings of the field missions underscore the fact that parliamentary involvement in overall development assistance to the country remains deficient, and that significant efforts are required to redress this situation. In order for parliament to enhance its role in the elaboration and implementation of national development strategies, the parliamentary leadership in the two pilot countries have committed themselves to review their own mechanisms for engaging with the United Nations through a more dynamic use of existing mechanisms and the application of new ones, a better flow of information, and the establishment of more functional linkages with the United Nations at the level of select parliamentary committees and the Office of the Speaker.

Good practices

The survey invited parliaments to provide examples of how they organize their work vis-à-vis the United Nations. The following examples were provided:

- Canada reports that UN documentation is made available through its parliamentary library and publications.

- In Algeria and Kenya, MPs play an active part by raising questions in parliament on UN matters.

- In Brazil, Botswana, Hungary and Tunisia, parliament is systematically involved in discussions and reviews to determine the country's position on UN matters, including through regular cooperation with UN country offices.

- The Parliaments of Bosnia and Herzegovina, France, South Africa and Spain organize debates and hearings on upcoming or ongoing international negotiations, major UN events or pressing global issues.

- Members of parliament from Austria, Denmark, Gabon, Georgia, Namibia, Tunisia and the United Kingdom are included in national delegations to the UN General Assembly and UN special meetings and are encouraged to participate fully as members of the delegation.

- The Parliaments of China, Italy and Tanzania invite local UN offices to attend visitor galleries during sessions or to attend meetings as envoys.

- The Parliaments in Bangladesh, Germany and Sudan have set up a dedicated parliamentary committee or other body on UN affairs to keep themselves updated and involved in UN matters, procedures and processes.

What can the IPU do to promote stronger interaction between parliaments and the UN?

The survey reveals several challenges and barriers to parliaments wishing to develop closer interaction with the United Nations.

One is the fact that many parliaments are still in an early stage of institutional development. They do not have the knowledge or resources they need to be able to deal with the enormous diversity of issues on the UN agenda and the huge volume of documentation and information that needs to be absorbed. Language is also an important barrier since much of the material may not be available in national languages.

Time is a significant constraint. MPs are constantly dividing their time between different interests and commitments and have limited opportunities to address matters that go beyond domestic and constituency issues.

In some countries, international affairs are traditionally the exclusive purview of the executive. In other countries, parliament holds little power over the executive branch and is thus hampered in its ability to engage the United Nations.

Members of parliament are also unfamiliar with the complex bureaucracy of the United Nations. They view the lack of a formal position for parliaments within the UN system as a serious barrier to MPs' involvement.

Many of the respondents indicate an interest in building their capacity to become more involved in UN processes. They suggest that the IPU should seek to facilitate a more systematic exchange of information between parliaments and the United Nations system. It should organize more seminars and training sessions for both MPs and staff on UN reform, global issues and international commitments. It should also develop specific information tools such as handbooks and guidance notes for parliamentarians.

The IPU should continue to sensitize MPs to the importance of their participation in UN-related activities and processes. In order to help bridge the implementation gap of international commitments, there is a need to ensure that legislators are well-informed and actively engaged. Many respondents stress that the IPU should take the lead in initiating parliamentary debate on burning issues such as the global economic, financial and food crises.

There is also great value in the IPU engaging with select parliamentary committees and individual MPs on specific issues pertaining to the global agenda. This helps to better mainstream the global agenda into the work of national parliaments. It also serves to add a parliamentary dimension to the work of the United Nations, and hence help bridge the democracy gap in international relations.

The IPU and the United Nations should pursue their cooperation in strengthening the capacity of parliaments in the development, oversight and implementation of national policies. Many parliaments still require assistance in developing mechanisms to better monitor the implementation of international commitments.

Several respondents suggest that the IPU should focus more on development cooperation and aid effectiveness, including through the organization of more needs assessment and fact-finding missions. Parliaments need to be included in the decision-making structures set up between the United Nations, donors and the executive at the country level; greater access to information on aid flows and modalities is required; and parliament's capacity to analyse annual budgets and other related legislation must be enhanced. From this perspective, the importance of transparency and accountability in the management of international aid is underscored, not least by making sure that incoming funds are reflected in the national budget and hence open to parliamentary scrutiny.

The IPU is invited to help parliaments engage more substantively with the United Nations at the country level. The IPU should also encourage a more coherent and systematic approach to how the United Nations itself relates to national parliaments as key institutions of democratic governance. Strengthening the institution of parliament and providing relevant capacity building and technical assistance should be recognized as a priority for the international community as a whole.

At the international level, the IPU is encouraged to ensure the implementation of relevant UN General Assembly resolutions, particularly those relating to UN-IPU cooperation and those calling for more systematic involvement of legislators in national delegations to major UN events. The IPU Committee on UN Affairs and its Advisory Group need to be bolstered and better utilized. In general, respondents feel that there is scope for the UN-IPU relationship to be further consolidated and formally institutionalized. Lastly, the IPU has a particular role to play in helping enhance cooperation between the United Nations and regional parliamentary organizations.

Concluding remarks

The IPU and its Committee on United Nations Affairs are grateful to all the parliaments that have responded to this Survey. The input received has been very useful in gaining a better understanding of the realities on the ground, and the needs and expectations of parliaments as they seek to play a more active role in addressing global issues and in engaging with the United Nations system. The conclusions and recommendations formulated by the respondents to the survey will provide the Committee on United Nations Affairs with an important basis for its future work, including strategies for future action.

List of countries that responded to the survey (as at June 2010): Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cambodia, Cameroon, Canada, Chile, China, Congo , Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Ethiopia, Finland, France, Gabon, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran (Islamic Rep. of), Italy,

Ireland, Japan, Jordan, Kenya, Kuwait, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mexico, Monaco, Mongolia, Morocco, Namibia, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Samoa, Saudi Arabia, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Sudan, Tanzania, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay, Viet Nam and Zambia.

Annex III

3rd WORLD CONFERENCE OF SPEAKERS OF PARLIAMENT

United Nations, Geneva, 19-21 July 2010

Item3

SP-CONF/2010/3(c)-R.1
1 July 2010

PRESENTATION OF REPORTS ON PROGRESS SINCE THE 2005 SPEAKERS' CONFERENCE

(c) STRENGTHENING THE IPU AND ITS RELATIONSHIP WITH THE UNITED NATIONS

Rapporteur: Mr. Geert Versnick, Vice-President of the IPU

Introduction

Since they began in 2000, the world Conferences of Speakers of Parliament have provided Speakers with opportunities to discuss major challenges facing humanity, the need for a stronger United Nations to cope with them, and the role they see for parliaments and the IPU in furthering international cooperation.

The first Conference led to a commitment by Heads of State and Government, expressed in the Millennium Declaration, to strengthen further the cooperation between the United Nations and parliaments through their world organization, the Inter-Parliamentary Union. This was to be done in various fields, including peace and security, economic and social development, international law and human rights, and democracy and gender issues.

The present report provides an overview of progress achieved in implementing this commitment by strengthening the IPU and its relationship with the United Nations. The first part of the report recalls the recommendations formulated by the two Speakers Conferences in 2000 and 2005. The second part describes the steps that have been taken to implement them. The reports end by looking ahead with a few conclusions.

Two World Conferences of Speakers of Parliament

The 2000 Conference of Presiding Officers was the first event ever at which Speakers of Parliament from throughout the world had met in the same room to discuss their role in the international sphere. As the world celebrated the millennium, the Speakers assembled at the United Nations in New York to pledge their interest in and their commitment to international cooperation.

At a time when multilateralism was seen to be under threat, the focus of the first Conference was thus to offer political support to the United Nations as the principal instrument of

international cooperation. In asserting the need for a strong relationship between parliaments and the United Nations, the Speakers declared that their ambition was to bring a more manifestly democratic dimension to international decision-making and cooperation.

The Declaration which the Speakers adopted at the end of the debate reflected this ambition. It contained a description of the main challenges facing humanity at the dawn of the new millennium, as viewed by parliaments. It reaffirmed the central role of the United Nations in meeting those challenges, committed parliamentary support for UN reform, outlined the momentous evolution in international relations, set forth the imperative for parliaments and the IPU to provide a parliamentary dimension to international cooperation and described how they proposed to accomplish this objective.

Five years later the Speakers of Parliament met in New York for their second World Conference. As the Heads of State and Government assembled in New York, much of the Speakers' debate at UN Headquarters centred on a set of proposals for reform of the United Nations which had been tabled by the Secretary-General. Delegates also had a first opportunity to take stock of the Millennium Development Goals (MDGs) which had been adopted five years earlier.

The Speakers of Parliament reviewed progress in implementing the declaration they adopted in 2000 and discussed growing challenges facing the world. In their concluding declaration, they issued a strong call for multilateral action to solve global problems and pledged to provide support. They asked that the United Nations be given the structures and resources needed to address economic and social development problems and called on States to live up to their commitments to provide development assistance. They asked for greater efforts to address global security issues, fight terrorism, defend human rights and promote democracy and good governance.

More than anything, however, the Speakers drew attention to what they saw as a democracy gap in international relations and issued a call for greater democracy at the United Nations. While expressing appreciation for the progress that had been made in creating greater and more meaningful cooperation between parliaments, the IPU and the United Nations, they emphasized that they wished to see more strategic and mutually beneficial interaction between the United Nations and the parliamentary world. The Speakers also resolved to work ever more closely with the IPU, the unique global parliamentary counterpart of the United Nations.

The IPU and its relationship with the UN ten years on

The IPU has seen major changes over the last decade. After the Millennium Summit, the IPU undertook a comprehensive review of its strengths and weaknesses, assessing its objectives, structures and working methods. It adopted a large scale reform programme which was accompanied by a comprehensive revision of its Statutes and Rules.

The modernized IPU is more clearly an organization of parliaments that strives to assist parliament in its work and is accountable to parliaments. Its structures and working methods are those of parliaments. Like parliaments, the IPU holds debates in plenary Assemblies and carries out much of its work in standing or select committees. Its programs are geared to assisting parliaments in a wide range of fields with special emphasis on issues relating to democracy.

As requested in the Millennium Declaration, the IPU facilitates parliaments' interaction with the United Nations on matters broadly falling within the spheres of peace, development and democracy. It mobilizes parliamentary expertise on issues that are high on the agenda of the United Nations, providing a parliamentary perspective informed directly by the views of the electorate. Throughout the year, the IPU offers members of parliament opportunities to debate these topics and to formulate recommendations for action by parliaments, by governments and by the United Nations.

The IPU has set up a Committee on United Nations Affairs which considers how the organization can help strengthen cooperation between the United Nations and parliaments. In 2007, the Committee put forward a policy paper on the nature of the relationship between the United Nations and the world of parliaments, which was endorsed by the IPU's governing bodies and submitted to the United Nations (Annex).

The paper makes the fundamental point that in tomorrow's world parliament must be part of international efforts to address global problems and challenges, and that the IPU is a critical component of this equation. Each parliament is sovereign in its approach to international cooperation and the IPU is not a substitute for action by parliaments. It is not, nor should it become, a global parliament. It is nonetheless useful to parliaments. It promotes action by parliaments, acting as a catalyst, facilitating interaction with the world of the United Nations and, more generally, helps to ensure that the views of the parliamentary community are heard at the United Nations.

To be able to do these things, the IPU has had to solidify its own relationship with the United Nations. A first step was taken in 2002, when the IPU obtained permanent observer status with the UN General Assembly, endowing IPU representatives with the right to take the floor at the meetings of the General Assembly and its subsidiary bodies. The status also made it possible to have official IPU documents distributed in the General Assembly. UN specialized agencies were invited to adopt similar modalities for cooperation with the IPU. For the first time, the General Assembly welcomed the efforts made by the IPU to provide for a greater parliamentary contribution to the UN.

The IPU also did more to encourage legislators to join national delegations and attend parliamentary sessions convened by IPU at major UN conferences: the World Summit on Sustainable Development (Johannesburg 2002), the World Summit on the Information Society (Geneva 2003 – Tunis 2005), the Global Conference on Financing for Development (Monterrey 2002 – Doha 2008), the Global Forum on Human Trafficking (Vienna – 2008), the UNCTAD Ministerial Meetings (Sao Paulo 2004 – Accra 2008) are some examples.

Substantive cooperation with UN specialized agencies developed at a fast pace, particularly in the cases of UNDP, UNICEF, ILO, UNCTAD, UNAIDS and UNESCO. Activities included seminars and workshops, consultations on good practices and model legislation, joint publications, and technical assistance to parliaments, particularly in countries trying to rebuild their institutions in the aftermath of war.

The IPU has worked with various UN bodies and agencies to produce guides and handbooks for parliamentarians. To date, some 16 handbooks have been issued and

distributed to parliaments. The publications cover a wide range of areas: humanitarian law, refugee protection, rights of the child, oversight of the security sector, small arms, violence against women, gender budgeting, persons with disabilities, human trafficking, HIV/AIDS, and so forth. Many have already been translated into the languages of UN member States.

In the UN Treaty Bodies and their review mechanisms the IPU has helped parliaments to increase their leverage in the national review of international commitments. Perhaps the most successful to date is in the case of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). The IPU works with the parliaments of the countries under review so that they can take part in the review process, provide input to the national report, attend the session of the CEDAW Committee and receive the UN findings for consideration and action by parliament. Efforts are currently under way to develop a similar mechanism for the UN Human Rights Council and its Universal Periodic Review mechanism.

With its new status at the United Nations, the IPU has also been able to influence UN processes and decisions, particularly in the new UN bodies established after the UN Summit of 2005: the Peacebuilding Commission, the Development Cooperation Forum (DCF) of ECOSOC and the UN Human Rights Council. A General Assembly Resolution of November 2008 acknowledges the contribution by the IPU in shaping the agenda and work of the Development Cooperation Forum, while encouraging the UN Peacebuilding Commission to work closely with the IPU.

The annual Parliamentary Hearing at the United Nations is now formally a joint UN-IPU event convened by the IPU President and the President of the UN General Assembly. Its summary report is an official document of both the IPU and the General Assembly. The Hearing brings parliamentarians' views directly to the United Nations and provides a basis for improving parliamentary oversight of UN operations. In the course of the year, there are other specialized parliamentary meetings at the UN in New York, such as the one held at the annual session of the UN Commission on the Status of Women.

Parliamentary scrutiny of UN operations also takes on other forms. As mentioned above, the IPU recently set up a Committee on United Nations Affairs, which meets annually at the IPU October Assembly. The Committee reviews UN-IPU cooperation, monitors progress towards institutional reform of the UN system, and identifies new areas of action. Its Advisory Group is mandated, inter alia, to conduct field missions to UN pilot countries implementing the One-UN reform. To date, missions have visited two of the eight pilot countries, Tanzania and Viet Nam. In both cases, the missions have led to better involvement of the respective parliaments in national development strategies and the monitoring of international aid. More and more, local UN offices are working with the parliament.

At the United Nations, initial reservations towards involving parliamentarians in UN work are gradually being overcome. For example, General Assembly thematic debates often feature MPs as key-note speakers. The UN acknowledges the practice of including MPs as members of national delegations to major UN meetings and events, and member States have been invited to adopt it more systematically. Permanent Missions are paying greater attention to parliamentary meetings held at the United Nations.

In essence, a broad agenda of work has developed between the two organizations. This is attested to by the biennial Report of the UN Secretary-General on Cooperation between the United Nations and the IPU. Despite this, more systematic consultations are needed. It has thus been decided that a regular annual exchange will take place between the UN System Chief Executives Board for Coordination and the senior leadership of the IPU.

Moreover, the UN General Assembly has decided that the agenda of its 2010 session will include an item entitled *Cooperation between the United Nations, national parliaments and the IPU*. This will offer Member States a new opportunity to discuss this triangular relationship with a view to further strengthening interaction between the United Nations and the world of parliaments.

Looking ahead

Considerable progress has been made since 2000 to modernize and strengthen the IPU and to build up the organization as a parliamentary counterpart to the United Nations at the global level. It is increasingly able to raise awareness in parliaments on matters being addressed at and by the United Nations and assist them in providing a parliamentary dimension to the work of the United Nations.

These efforts need to be vigorously pursued in the coming years.

A parliamentary dimension is provided by parliaments themselves. How they do it will always depend on the parliamentary system prevailing in any given country and the powers conferred upon the parliamentary chambers under the constitution or basic law. Every parliament is sovereign in its approach. Common to all, however, is an effort to apprehend the business of the United Nations and make it more integral to their legislative and oversight work.

The IPU is a critical component of this equation. The Millennium Declaration calls for closer co-operation between the United Nations and parliaments, through their world organization, the IPU. The IPU acts as a catalyst. It is a facilitator; not a substitute. It belongs to parliaments, understands them and defends their interests. It is an inter-parliamentary organization and its relationship with the United Nations matters.

There has to be greater understanding by the United Nations and its Member States for the role of the IPU in helping provide a parliamentary dimension to the work of the United Nations. The IPU is not seeking to do the work of the UN; it is equally important that the UN should not do the work of the IPU. The cooperation between the United Nations and parliaments should respect the balance and separation of powers between government and parliament. The relationship which the United Nations develops with the IPU must reflect this principle.

It is on this basis that the IPU and the United Nations need to build a strategic partnership. This, in turn, presupposes that the IPU itself should be more clearly recognized as a fully-fledged international organization. The IPU must be able to count upon greater political and diplomatic support and strengthen its ability to promote democracy. It needs to

stand on a more equal footing with other major international organizations so as to facilitate its cooperation with these organizations. It must be able to operate with the necessary guarantees in all countries.

There is today growing international recognition of the importance of having democratic parliaments in all countries that can assume fully their constitutional role at the national level and provide a parliamentary dimension to international cooperation. To achieve progress the IPU needs to be clear and focussed about its future direction and has to be able to count upon support from States. It is against this background that the IPU is now engaged in developing a comprehensive strategy for its further development in the next five years.

Appendix

ON THE NATURE OF THE RELATIONSHIP BETWEEN THE UNITED NATIONS AND THE WORLD OF PARLIAMENTS

Policy paper[1] presented by Mr. Geert Versnick, MP (Belgium), member of the Advisory Group of the IPU Committee on United Nations Affairs

Endorsed by the 117th IPU Assembly (Geneva, 10 October 2007)

Introduction

1. We live in an interdependent world where yesterday's neat distinctions between national and international affairs, and what constitutes domestic and foreign policy, no longer apply. Events in one country frequently have profound effects on other States and on international relations generally, which, in turn, help shape the domestic agenda in countries all over the world in a never-ending circle.

2. As this world evolves, so does the universe of international organizations. A hundred years ago there were few entities specifically set up to manage international or multilateral cooperation. Today, they number many thousands, operate at the global, regional and sub-regional levels, and cover most aspects of human endeavour. Foremost among the global organizations is the United Nations and its system of specialized agencies.

3. The United Nations is a permanent forum for inter-governmental cooperation. At the United Nations, governments negotiate and agree on international conventions and guidelines and on major operations, for example to build peace and security in situations of conflict. However, the United Nations is also a service provider, much like a governmental agency or department. It implements programmes, particularly in support of development, in almost every country in the world, invariably in cooperation with governments, civil society organizations and others.

4. The United Nations is a classic international organization. Its members are States, which are represented by the executive branch of government and which negotiate and take decisions on its behalf. Under the United Nations Charter, there is no place for parliaments in the United Nations architecture. "We the peoples of the United Nations" are represented by governments, not the people's elected representatives.

5. However, the United Nations is not immutable and change is taking place. Structures and working methods, policies and programmes are under scrutiny, and much is being done

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[1] The present paper has been drawn up at the request of the Advisory Group of the IPU Committee on United Nations Affairs and reflects the substance of the discussion that took place at the Group's first meeting on 12 and 13 July 2007. It also draws heavily on a number of documents, reports and papers produced by parliaments and the IPU over many years, including the reports and outcome documents of the first two World Conferences of Speakers of Parliament organized by the IPU at United Nations Headquarters in New York in 2000 and 2005 (IPU Reports and Documents No. 39 and UN document A/60/398).

to turn the United Nations into a more effective organization that is better able to meet current demands.

6. Against this backdrop, what responsibilities do parliaments have in the area of international cooperation? How do they relate to multilateral organizations like the United Nations? What role do parliaments assume at the United Nations? What mechanisms are at their disposal? These are some of the questions that this paper will address.

Parliaments and international cooperation

7. While constitutional systems vary from one country to another, parliaments everywhere are the central institution of democracy. They embody the will of the people and its expectations that democracy will be responsive to its needs and solve the most pressing problems that confront it.

8. As the elected body that represents society in all its diversity, parliament has a unique responsibility for reconciling the conflicting interests and expectations of different groups and communities through the democratic machinery of dialogue and compromise. As the key legislative organ, parliament has the task of adapting laws to society's ever changing needs. As the body entrusted with the oversight of government, parliament is responsible for ensuring that governments are fully accountable to the people.

9. With few exceptions, parliaments have had scant involvement in international affairs. This was hardly surprising in the days when international affairs were largely handled through bilateral relations between States. Today's world presents a different picture, and parliaments everywhere are grappling with international affairs and, by extension, with the United Nations in a number of ways.[2]

10. There can be no gainsaying that parliaments have much to contribute to the United Nations. Members of parliament possess unique understanding of people in all their diversity and are better placed than most to articulate people's aspirations and explain what really matters to them. They are also powerful opinion makers and can, through their work in parliament, political parties and movements, and in their constituencies, raise public awareness and create popular support for international action at the United Nations. It therefore makes a great deal of sense to invite them to contribute to the work of the United Nations.

11. Of course, parliament's role is not limited to implementing previously negotiated international agreements. Without seeking to supplant the executive branch of government by negotiating international agreements at the United Nations, parliaments are increasingly insisting that these negotiations be subjected to much more stringent democratic parliamentary control. In practice, this means that a parliament should:

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[2] See also *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice* (IPU, 2006), which provides an extensive overview of parliament's involvement in international affairs.

- ✓ Be given sufficient advance notice of negotiations that will take place at the United Nations;
- ✓ Have accurate information at its disposal about the issues at stake and the policies and negotiating positions that will be under consideration;
- ✓ Be able to put questions to ministers and negotiators, and to express its political views to the government;
- ✓ Where the system so allows, provide the government with an explicit negotiating mandate or have the power to influence it;
- ✓ Be equipped with the necessary structures, procedures and resources to be able to monitor negotiations as they develop and, to that end,
- ✓ Be represented, as a matter of course, in national delegations attending these negotiations.

12. This is particularly true in that agreements reached at the United Nations will have little practical effect if parliaments do not take action to implement their provisions. To this end, parliaments are increasingly undertaking some or all of the following actions:

- ✓ Ensure that they are fully conversant with the content of an international agreement so as to be able to ratify or otherwise assent to the respective country's accession to it;
- ✓ Review and adapt existing laws, or adopt new ones, to implement the provisions of the agreement;
- ✓ Vote the financial resources to fund implementing programmes, generally under the annual budget, and monitor expenditures and implementation through the annual audited accounts;
- ✓ Require the government to report to parliament periodically on the implementation of a specific international agreement;
- ✓ Where international mechanisms have been set up to monitor the implementation of these agreements, debate and provide input for the periodic reports to these mechanisms, attend, as part of the government delegation, the sessions where the reports are discussed and review the ensuing recommendations for follow-up.

13. As mentioned above, the United Nations is also a service provider in its own right, running programmes in a wide range of areas, particularly development. It has formulated the Millennium Development Goals (MDGs) and assists countries in meeting them, along with other development goals, by offering support to governments in implementing the corresponding national development plans. Here again, parliaments are increasingly assuming a more assertive role to ensure that programmes are designed and implemented in a participative and transparent manner and that they meet the needs of the people. Action by parliament includes:

- ✓ Participating in the development of poverty reduction strategy programmes by, for example, holding public hearings, commissioning expert reports and submissions, questioning relevant ministers and officials, and formulating policy proposals;
- ✓ Adopting enabling legislation and budgets to implement these and related development programmes;
- ✓ Reviewing and, as the case may be, approving foreign aid programmes negotiated by the executive branch of government with the United Nations, including the

international financial institutions such as the World Bank and the International Monetary Fund, and with bilateral donors;

- ✓ Monitoring implementation of these programmes not merely for their financial soundness but especially for their effectiveness in delivering development to the people.

14. The United Nations system frequently implements programmes that touch directly on State policies. Every one of them should ideally be brought to the attention of parliament for possible review as part of its oversight of government policy.[3] The United Nations also constitutes a formidable knowledge base for countries everywhere. Parliaments have much to gain and can make a notable difference to the general welfare by acting on some of the research done by the United Nations.[4]

15. The United Nations system is funded by States largely through the national budget adopted by parliament. Just as parliament monitors the performance of national entities funded through the State budget, so, too, should it review the performance of the international organizations receiving funding. To this end, parliaments are showing increasing interest in:

- ✓ Undertaking some form of periodic review of the functioning of these organizations and of the policies pursued by the government in regard to them;
- ✓ Reviewing the broad policies that these organizations apply in regard, for example, to development cooperation.

Parliaments at home and abroad

16. It has been observed that the substance of politics is becoming ever more global but the process of politics is not. The fundamental political institutions - elections, political parties and parliaments - remain firmly rooted at the national and local levels.[5] This is only to be expected. The nation-State still forms the basis for the structure of international cooperation, and parliaments are national institutions that embody the sovereignty of those States.

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[3] To quote a few examples among many, the programmes of the World Health Organization touch on national health policies, the protection and assistance programmes of the United Nations High Commissioner for Refugees impinge directly on a country's human rights obligations and its population and migration policy, and UNICEF programmes are directly relevant to a country's child protection framework and the implementation of the Convention on the Rights of the Child.

[4] For example, a recent United Nations study demonstrates that violence against children occurs on a large scale and in a range of settings, that it is often under-reported, and that it can have a devastating impact on children. Parliaments can be instrumental in curbing violence against children by raising the United Nations study in parliament, measuring State policies and programmes against the study's findings, and enacting corrective measures where necessary.

[5] See the *Report of the Panel of Eminent Persons on relations between the United Nations and civil society, including parliamentarians and the private sector* (Cardoso report, UN document A/58/817).

17. It is therefore logical that parliaments address international issues, including the work of the United Nations, on their home territory. By successfully working United Nations affairs into their agenda and proceedings, national parliaments can provide a parliamentary dimension to the work of the United Nations and thus help bridge the democracy gap in international relations.

18. This is not to say that parliaments are absent from the work of the United Nations. On the contrary, the parliamentary presence at the United Nations is becoming larger and more diverse, in ways that include:

- ✓ Missions by members of parliamentary committees and other parliamentary delegations to different offices of the United Nations system to exchange views on their work and on international conventions that are being or will be implemented;
- ✓ Parliamentary missions to examine United Nations field work, for example in peace-building operations;
- ✓ Parliamentary participation in official national delegations to the United Nations General Assembly and other major meetings of United Nations organs;
- ✓ Parliamentary support for several United Nations operations by, for example, engaging in parliamentary diplomacy, participating in election observer missions, and providing resource persons in governance projects;
- ✓ Participation in a growing number of hearings, panel discussions and conferences organized in conjunction with major United Nations meetings.

19. In these different endeavours, a conscious effort is also being made to mobilize the expertise that exists in parliamentary standing and select committees with a view to connecting with the different United Nations bodies dealing with the specific issues within their competence. In this way, parliaments are in a better position to interact with the United Nations not only by contributing substantively to discussions taking place at the United Nations, but also by ensuring that the questions are followed up in parliament itself.

20. In a nutshell, parliaments' interaction with the United Nations is founded on action in parliaments at the national level, complemented by greater and more systematic engagement by parliaments internationally. To drive this process forward, parliaments are committed to making better use of existing regional assemblies and their world organization rather than creating new international parliamentary structures or assemblies.[6]

The role of the Inter-Parliamentary Union

21. The IPU therefore has a central role to play in making this strategy work. It is the world organization of parliaments. It facilitates political dialogue between members of parliament and mobilizes parliamentary cooperation and action on a wide range of subjects that are

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[6] See for example the final declarations of the two World Conferences of Speakers of Parliament (UN documents A/55/409 and A/60/398) and the IPU statement to the 2005 High-level Plenary Meeting of the United Nations General Assembly (http://www.ipu.org/Un-e/sp-unga160905.pdf).

high on the international agenda.[7] The IPU provides an essential bridge between the national parliaments and the United Nations; it raises awareness in parliaments of the United Nations and its work, mobilizes parliamentary action on issues that are high on the international agenda and encourages and facilitates their interaction with relevant entities within the United Nations system.

22. More recently, the IPU has undertaken several reforms and adapted its policies, structures and working methods to the demands of the 21st century. This has included:

- ✓ Placing much greater emphasis on promoting closer cooperation between parliaments and the United Nations within the IPU's policy and programmes;
- ✓ Monitoring and contributing to the reform process at the United Nations and mobilizing parliaments to work with the newly created United Nations bodies;
- ✓ Mobilizing more generally the expertise that exists in parliaments on many of the major issues before the international community today and bringing it to bear on the deliberations taking place at the United Nations;
- ✓ Greatly expanding the number and content of parliamentary hearings, meetings and panels that it organizes every year in conjunction with the United Nations General Assembly and major United Nations meetings;
- ✓ Creating awareness in parliaments through training activities, seminars and global campaigns on major issues requiring urgent political action by parliaments and their members;
- ✓ Developing parliamentary handbooks and other practical tools to facilitate action in parliament to ratify, implement and monitor international conventions negotiated at the United Nations;
- ✓ Working closely with the United Nations and its programmes and agencies in designing and implementing joint programmes and activities, particularly to promote democracy and good governance from a broad perspective.

23. Notwithstanding these advances, the IPU's Member Parliaments are asking for a more substantive and equitable working relationship between the United Nations and their organization. They have set up the Committee on United Nations Affairs to monitor compliance with the series of recommendations developed in recent years for strengthened cooperation between the United Nations and parliaments, examine how they are fulfilled in practice, and make proposals for more effective implementation.

24. All of this is done by the IPU at the request of parliaments. In recent years, however, governments have also asked the IPU to foster more cooperation between the United

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[7] A more complete mission statement states that the IPU "*aims to ensure that parliaments and their members can freely, safely and effectively do the job they were elected to do: express the will of the people, adopt laws, and hold governments accountable for their actions. The IPU implements programmes to strengthen parliaments as democratic institutions. It audits parliaments, provides technical assistance and advice, undertakes research, and develops standards and guidelines. It places special emphasis on promoting and defending human rights and facilitating women's participation in politics*" (IPU, Handbook for Parliamentarians, No. 14, 2007).

Nations and parliaments.[8] They have granted the IPU special observer status at the United Nations General Assembly[9] and use their biennial review of cooperation between the United Nations and the IPU to make recommendations for strengthening interaction between the United Nations, the IPU and parliaments.[10] Evidence of this growing demand by the executive branch of government for a stronger relationship between the players is to be found in the latest General Assembly resolution, which focuses on five specific inter-related areas:

- ✓ Strengthening the IPU's contribution to the work of the United Nations General Assembly, including its revitalization, and to the new bodies such as the Human Rights Council and the Peacebuilding Commission;
- ✓ Building an active role for the IPU in support of the Economic and Social Council, particularly in relation to its annual High-level Summit and the new Development Cooperation Forum;
- ✓ Increasing cooperation between the United Nations and the IPU in the realm of democracy and good governance, including through the partnership agreement concluded between the United Nations Democracy Fund and the IPU;
- ✓ Developing further the annual parliamentary hearing at the United Nations and other specialized parliamentary meetings in the context of major United Nations meetings as joint UN/IPU events;
- ✓ Ensuring closer involvement of the IPU in the elaboration of system-wide strategies for consideration by the United Nations system and its Chief Executives Board for Coordination, with a view to ensuring greater and more coherent support by parliaments for the work of the United Nations.

Conclusions

25. What is the value of the most democratic State institution when so many of the decisions that matter to the life of the country's citizens, including their security, are taken beyond national borders by international institutions that are not subject to democratic control or accountability? This gap between the national level, where democratic institutions like parliaments are located, and the global level where so many decisions are now taken, is a major source of what is termed the international "democracy deficit".

26. Parliaments can, and increasingly do, take action to tackle this problem. As this paper suggests, their action necessarily depends upon the parliamentary system prevailing in any given country and the powers conferred upon the parliamentary chambers under the constitution or basic law. In all countries, however, it entails the use of parliamentary structures, working methods, habits and agendas, and where necessary their adaptation and modernization, to allow each institution to address the work of the United Nations and its related institutions.

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[8] Millennium Declaration adopted by Heads of State and government on 8 September 2000. UN document A/RES/55/2.

[9] See United Nations General Assembly resolution A/RES/57/32.

[10] See the most recent report of the United Nations Secretary-General on the subject contained in A/61/256 and the corresponding United Nations General Assembly resolution A/RES/61/6.

27. Every parliament is sovereign in its approach to this work, in keeping with the myriad of parliamentary cultures in the world. Common to all, however, is an effort to integrate the business of the United Nations into the day-to-day legislative and oversight work of parliament. As these efforts grow in vigour and outreach, parliaments are reaching ever further into the workings of the United Nations and participating in ever more diverse ways in its activities.

28. The IPU is a critical component of this equation. It promotes action by parliaments, acting as a catalyst, facilitating interaction with the world of the United Nations and, more generally, helping to ensure that the views of the parliamentary community are heard at the United Nations. The stronger the link between parliaments and the IPU, the better the chance of attaining the critical mass required to have a lasting effect on the United Nations.

29. The present challenge is to develop a common strategy for ensuring, in the words of the latest United Nations General Assembly resolution, *"greater and more coherent support by parliaments to the work of the United Nations"*. The IPU looks to its Committee on United Nations Affairs to provide the essential elements for such a policy.

Annex IV

3rd WORLD CONFERENCE OF SPEAKERS OF PARLIAMENT

United Nations, Geneva, 19-21 July 2010

Item 3

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1 July 2010

PRESENTATION OF REPORTS ON PROGRESS SINCE THE 2005 SPEAKERS' CONFERENCE

(b) BUILDING GLOBAL STANDARDS FOR DEMOCRATIC PARLIAMENTS

Rapporteur: Ms. Rose Mukantabana
Speaker of the Chamber of Deputies of Rwanda

Introduction

The 2000 and 2005 World Conference of Speakers of Parliament gave a strong endorsement of the IPU's work to promote democracy worldwide. They reaffirmed the central role played by parliament in furthering democracy nationally and internationally, stressing that parliament is the very embodiment of democracy and the central institution through which the will of the people is expressed, laws are passed and government is held to account. The Speakers pledged to consolidate the IPU as the primary vehicle for strengthening parliaments worldwide, and thus promoting democracy.

The IPU pursues a two-pronged approach to promoting democracy: it sets standards and it builds capacity in parliaments. This work is firmly grounded in the organization's Statutes, which assign a central role to the IPU in strengthening democracy through parliaments.

The past decade and a half have seen considerable developments in the IPU's democracy work, particularly in the area of setting standards. This report reviews progress the IPU has made in this field since the 2005 Speakers' Conference. It also identifies the next steps through which the IPU can take the process forward and retain its leading role in the development and promotion of democracy criteria and values.

IPU's approach to standards-setting

Standards-setting often brings to mind a situation where a person or group of persons designs a set of rules/criteria whereby others can be "judged" with little or no input from the "judged". The process involves the establishment of indicators on the basis of which qualitative/value judgments are made, often by outsiders, using quantitative measurements. This process allows much scope for subjectivity and may not actually achieve much substantively. It may lead to the establishment of league tables that seem to

achieve no other purpose than to reward and therefore please the "good students" and annoy or sow resentment among those at the bottom of the table.

The IPU has adopted a different, and it is hoped, more productive approach, which is non-prescriptive. The approach is consultative, inclusive and participatory. Ownership of the process and buy-in from those being assessed are crucial to its success.

The IPU has involved parliaments in the development of standards, in the firm belief that democratic principles cannot be realized without appropriate political institutions and practices and that these institutions can only be judged to be democratic insofar as they embody or serve to realize these principles. Parliaments are continuously engaged in a dialogue that allows them, collectively, to identify what makes for an effective contribution to democracy, it being understood that they should embody democratic principles and values if they are to achieve this objective.

Recent milestones in setting standards globally

Universal Declaration on Democracy (1997):

A review of the IPU's standards-setting work should be seen against the background of the Universal Declaration on Democracy, which was adopted by the IPU in 1997. The Declaration was the first attempt by the international community to codify in a single document the founding principles and constituent elements of democracy at both the national and international levels.

The Declaration has been recognized as a yardstick against which democracy can be measured and provides the basis for the recent work carried out by the IPU in setting standards. The 2007 decision by the UN General Assembly to proclaim 15 September International Day of Democracy constitutes in part a commemoration of the 10th anniversary of the adoption of the Universal Declaration on Democracy.

The principles and values of democracy set out in the Declaration include the need to preserve and promote the dignity and fundamental rights of the individual, achieve social justice, foster economic and social development of the community, the imperative for all components of society, including men and women, to be able to participate fully in the management of the society, free political competition involving all in society as a modality for acceding to and wielding power, the rule of law, and the link between democracy and peace and economic, social and cultural development.

The Declaration therefore stresses the importance of free and fair elections as a means of enabling the people to express their will; the need for effective, honest and transparent government, freely chosen and accountable for its management of public affairs; and the existence of strong State institutions, including a parliament in which all components of society are represented and which has the requisite powers and means to express the will of the people by legislating and overseeing Government action.

The Declaration also stresses the international dimension of democracy. It affirms that the same principles that apply to democracy at the national level should also apply to the management of global issues at the international level. States are therefore urged to

ensure that their conduct is consonant with international law and that institutions and mechanisms put in place to steer global governance should be open, transparent and accountable.

Parliament and democracy in the twenty-first century: A guide to good practice, (2006)

The 2nd World Conference of Speakers of Parliament, held in September 2005, received a progress report on the work the IPU had initiated to develop standards. It also reviewed an initial draft of a guide on democracy. The IPU finalized and published that guide in 2006. This Guide builds on the Universal Declaration on Democracy. It identifies the values and objectives of a democratic parliament as follows: representativeness, transparency, accessibility, accountability and effectiveness at the national, international and local level. It identifies the institutional mechanisms for achieving these values and is replete with examples of how these values and objectives are put into practice by parliaments across the world.

Pursuant to the principles on which the IPU's standards-setting activities are predicated, the Guide does not seek to rank parliaments or to undertake an assessment of the quality of democracy in their country. Rather, it reflects general agreement by the parliamentary community on the constituent characteristics of a democratic parliament, the values underpinning it and the institutional means and modalities for implementing them. The Guide is both an exposition of theory and a compilation of good practices being implemented by parliaments to make them better able to carry out their constitutional mandate: law-making, oversight and representation.

The Guide clearly places parliaments at the forefront of the democracy agenda. Contrary to the widely held opinion that parliaments are not living up to expectations, the Guide shows, with concrete examples, exactly what parliaments worldwide are doing to remain accountable to their electorate. It is clear from the Guide that a healthy debate is taking place at the international level on what it takes to be a democratic parliament. What emerges is that the challenges facing parliaments in the 21st century are similar and that a sense of emulation among parliaments is taking root in a bid to meet those challenges.

Evaluating parliament: A self-assessment toolkit for parliaments, (2008)

These changes have led several parliaments to review their performance and working methods and introduce improvements. To facilitate their task, the IPU produced a self-assessment toolkit in 2006. It is intended to assist parliaments and their members in assessing their performance against generally accepted criteria for democratic parliaments and to identify priorities and methods for strengthening Parliament. Given that the toolkit is based on universally recognized democratic values and principles, it is relevant to all parliaments, whatever political system they adhere to, and irrespective of their stage of development.

Once again, the purpose is not to rank parliaments or to pass external judgment on a given parliament. The process of self-assessment is conducted by parliamentarians themselves, who are the principal actors and judges. The self-assessment toolkit provides a framework which consists of a series of questions that invite value judgments. The

questions are a starting point for a dialogue on what is working well and what needs improvement. The framework is divided into six sections:

- The representativeness of Parliament
- Parliamentary oversight of the Executive
- Parliament's legislative capacity
- The transparency and accessibility of Parliament
- The accountability of Parliament
- Parliament's involvement in international policy

While parliaments are at liberty to administer the toolkit themselves, some of them may prefer to draw on external assistance for a variety of reasons, including lack of capacity or know how. The IPU has therefore established and trained a core group of facilitators, who can be called on to assist parliaments in administering the toolkit. This toolkit has been used by parliaments in developed and developing countries, for example as part of a strategic planning exercise or as a framework for a periodic review of parliament's activities. In 2009, the toolkit was used by the parliaments of Australia, Cambodia, Pakistan, Rwanda, Sierra Leone and South Africa. In Rwanda and Sierra Leone, the IPU facilitated the process with experts. The parliaments of Bahrain and Ireland have recently reported that they were using the toolkit to evaluate their performance.

The toolkit is based on the precept that democratization is not a one-off event, but an ongoing process that requires continuous introspection by democratic institutions and the introduction of corrective measures where necessary.

The IPU strives to foster the necessary linkage between standards-setting and building the capacities of parliaments, both of which are mutually reinforcing. The toolkit has been used to help parliaments develop or amend the strategic plan for their future development. The findings of assessments can be fed into the training, advisory and other services the IPU provides to beneficiary parliaments.

Other standards-setting initiatives:

A number of other institutions are involved in developing standards and benchmarks as well as methods for assessing parliamentary performance as follows:

- The Commonwealth Parliamentary Association (CPA) developed in 2006 *Benchmarks for Democratic Legislatures*. The CPA Benchmarks are phrased as statements rather than as questions. There are 87 benchmarks divided into four main headings: General, Organization of the Legislature, Functions of the Legislature, and Values of the Legislature.

- The United Nations Development Programme has supported the creation of regional versions of the CPA benchmarks. This has led to the adoption of a set of criteria for democratic legislatures by the Assemblée parlementaire de la francophonie. The Southern African Development Community (SADC) Parliamentary Forum is also working on a regional version for southern African parliaments.

- The National Democratic Institute for International Affairs (NDI) has developed a *Survey on the Gaps between Parliamentary Power and Practice*. The NDI survey tool is

not an evaluation per se, but a method of collecting perspectives from parliamentarians, parliamentary staff and civil society organizations on perceived parliamentary powers and perceptions on the use of these powers in practice. The NDI survey tool covers 25 issues that often are included in benchmarks for democratic parliaments or in parliamentary self-assessment tools.

- The Association of Secretaries General of Parliament (ASGP) has decided to prepare a version of the IPU self-assessment toolkit specifically for parliamentary administrations. A conference organized by the IPU and the ASGP on 22 October 2009 brought together parliamentarians, Secretaries General, specialized parliamentary staff and parliamentary organizations under the theme of *Evaluating parliament*.

The IPU has remained very active within the community that has demonstrated a strong interest in developing methods for evaluating parliamentary performance. It has been able to secure widespread acceptance of the concept of self-assessment as an effective means of helping parliaments improve their performance.

Next steps

The IPU's standards-setting work has been welcomed far and wide. In fact, many parliaments have asked IPU to do more to develop and/or refine tools to measure progress in parliaments towards achieving the basic precepts of democracy.

Parliaments continue to face questions of legitimacy and need to forge ever closer ties with their constituents. These are among the major challenges that parliaments have to contend with in the 21st century.

The 3rd World Conference of Speakers of Parliament will discuss, inter alia, ways in which parliaments can help secure global democratic accountability for the common good in a world in crisis. Achieving this objective requires parliaments and their members to set the example by striving to be more accountable to their electorate in words and, above all, in action.

The IPU needs to continue to show leadership in the field of standards-setting and to help parliaments make an increasingly robust contribution to democracy. The 3rd World Conference of Speakers of Parliament recognizes this and its draft outcome document invites the IPU to strengthen its activities in support of democracy.

The Conference Preparatory Committee endorsed the idea that the IPU now needs to move this process forward by establishing a voluntary review mechanism of parliamentary performance. The mechanism would offer parliaments an opportunity to exercise collective responsibility and assist each other in assessing and improving their respective performance. As parliaments seek to perform their law-making, oversight and representational duties in a more efficient fashion, the sharing of experiences and good practices resulting from such a mechanism would be helpful to all parliaments.

Like similar mechanisms which have been established at the United Nations and regional organizations, the IPU exercise would be based on agreed values, codes and

criteria. The review process would be consultative, participatory and transparent, as well as grounded in dialogue and interaction between key stakeholders. It would be firmly in the hands of the parliaments themselves and would be free of political interference. Participation in the process would be entirely voluntary and the process in each case would be nationally owned.

There is currently no global mechanism that allows parliaments to monitor their performance collectively and engage in experience-sharing and emulation on the basis of criteria identified by themselves collectively.

Conclusion

Addressing the issue of legitimacy of parliaments and seeking greater accountability in the national and global systems of governance require parliaments to continue to play a leading role in the promotion of democracy. They need to show leadership and commitment to the designing of standards which they apply to themselves. Only then would they stand in better stead to require more accountability of governance at both the national and global levels. Only then would they be able to provide a solid foundation for democracy.